

Novæ Res Urbis

CITY OF TORONTO EDITION

FRIDAY, DECEMBER 23, 2005 • VOL 9 • No 50

DAVID MILLER PONDERES THE EVENTS OF 2005

Governance, gas tax and guns

By Anne Marie Aikins

As the events of 2005 wind to a close, mayor **David Miller** spent a few minutes with *Novæ Res Urbis* debriefing the news of the past year—including his top three most important Toronto-changing events—and offering his wish list for 2006. Although Miller has experienced some less than favourable press of late, as has his beleaguered staff, as he heads into an election year with continuing popularity and without a formidable contender in sight. Even his harshest critics credit Miller with securing the new deal for Toronto—even if the full deal has yet to be realized. In the next year, however, expectations will be higher than ever—the public will expect results on the waterfront, crime, housing and homelessness, and public transit.

“For the first time in a very long time, I think people are feeling very hopeful about the city and what it can become,” Miller said. “We have met with senior civil servants and they are very excited about the year ahead and what we can accomplish now that the new legislation has been tabled.”

“There is an enormous amount of work ahead, but the city’s talented staff are up for the challenge and very eager to get to work,” he said before he left to take some time off over the holidays.

Miller listed the new *City of Toronto Act* as the most significant event of 2005 given its potential to improve how the city works and operates as a grown up. “The new legislation is good for Toronto and great for

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TOP TEN PLANNING AND DEVELOPMENT LAW FIRMS IN THE CITY OF TORONTO (2004-2005)

Eighth annual ranking of the city’s most prolific performers

As part of our annual end-of-year ritual and a tribute to all of those lawyers who have worked hard in the planning and development field, particularly in front of the Ontario Municipal Board, we have compiled our eighth annual ranking of the most prolific of those firms in the City of Toronto. The review comprises planning and legal activities, mostly board decisions with some court appeals rounding out the analysis, in Toronto from August 2004 to July 2005, as reported by *Novæ Res Urbis—Toronto Edition*. For those tracking GTA activity outside of the city, be sure to see a copy of this past Wednesday’s edition of *Novæ Res Urbis—GTA edition*.

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MAKING REAL ESTATE DECISIONS? TAKE ADVICE FROM EXPERIENCE.

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MARK THESE DATES

SUNDAY JANUARY 1

Mayor David Miller's New Years Levée, City Hall rotunda, 2:00 – 4:00 p.m.

WEDNESDAY JANUARY 4

Policy and Finance Committee and Budget Advisory Committee Joint Meeting, Operating Budget, Committee Room 1, 9:30 a.m.

THURSDAY JANUARY 5

Administration Committee, Operating Budget, Committee Room 1, 9:30 a.m.

MONDAY JANUARY 9

Planning and Transportation Committee, Operating Budget, Committee Room 1, 9:30 a.m.

Building Our City, Toronto Board of Trade, Westin Prince Hotel, 900 York Mills Road, 6:00 – 9:00 p.m., election fest begins at 7:30 p.m., 416-862-4500.

TUESDAY JANUARY 10

Don Mouth Naturalization and Port Lands Flood Protection Project Public Forum, TRCA, Metro Hall, 6:00 p.m., 416-661-6600, ext. 5280.

WEDNESDAY JANUARY 11

Works Committee, Operating Budget, Committee Room 1, 9:30 a.m.

All Candidate's Debate, Community Social Planning Council and others, Metro YMCA, 20 Grosvenor St, 10:00 a.m. – 12:00 p.m., 416-351-0095.

THURSDAY JANUARY 12

Toronto-NGO Partnerships: Creative Solutions for Addressing Homelessness in Toronto, CUI, Metro Hall, 7:45 – 9:45 a.m., 416-365-0765.

FRIDAY JANUARY 13

Budget Advisory Committee, Committee Room 1, 9:30 a.m.

OMB DISMISSES FILM STUDIO APPEAL

FILMPORT construction gets green light

The **Ontario Municipal Board** has dismissed an appeal that threatened to delay construction of **FILMPORT**, the much-anticipated \$275-million mega-film and media production complex, which was approved earlier this year by **Toronto** city council for the port lands. The board determined that the appellants did not have the “requisite standing to launch the appeal.”

The studio's parent company, **Toronto Film Studios Inc.**, made the announcement on Wednesday after board members **Wilson Lee** and **Donald Granger** rejected the appeal by **Cinespace Film Studios**, a competing film studio operator. **Cinespace** objected to a minor variance obtained for the 12-hectare site, located south of Commissioners Street on lands owned by the **Toronto Economic Development Corporation**. The variance to allow uses ancillary to film production, had been approved by the city's committee of adjustment last June.

“The OMB decision confirms that **FILMPORT** complies with the city's vision for regeneration of the port lands,” said president **Ken Ferguson**.

“With this hurdle out of the way

and construction targeted to start by next summer, **FILMPORT** will play an instrumental role in the larger plan to turn Toronto's port lands into an innovation and creativity district providing knowledge-based jobs in film and media production, arts, culture and tourism,” **Ferguson** said.

Ferguson also announced that two additional OMB appeals involving the new studio have been settled. **Toronto Film Studios** and **TEDCO** recently reached agreement with a neighbouring recycling business, **NRI Industries Inc.**, ensuring that **FILMPORT** activities will not unduly impact the company's recycling operations. On November 30, **The Docks**

Entertainment Complex withdrew its appeal.

The first phase of the **FILMPORT** development includes 232,500 sq. ft. of production facilities, with six sound stages totalling 123,000-sq. ft. and more than 100,000-sq. ft. of production office and support facilities. Construction also includes a 45,000-sq. ft. mega-stage, the largest purpose-built sound stage in North America.

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When completed, FILMPORT is expected to generate more than \$600 million worth of economic activity in Ontario annually, support up to 2,000 person-years of employment and contribute approximately \$4.3-million in property taxes to the city.

NOVÆ RES URBIS

CITY OF TORONTO EDITION

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Top Ten Planning Law Firms in Toronto continued from page 1

1. McCarthy Tétrault

[RANK LAST YEAR: 4]

(John Dawson, Stephen Diamond, John Inglis, Calvin Lantz, Cynthia MacDougall, Tara Piurko, Phillip Sanford, Michael Smith, Christopher Tanzola, Brad Teichman)

Reasons for ranking: McCarthy Tétrault knocked Adam Brown out of the top spot with several high-profile cases, including successful defence of a church shelter and the redevelopment plans for Don Mount Court and the Queen Street Centre for Addiction and Mental Health, as well as the infamous Sherway Gate hearings for 700 Evans Avenue, the Bedford towers decision and the Trump tower appeals.

OMB/ Court Matters or Hearings: representing the Toronto District School Board regarding an appeal for rezoning to redevelop a three-storey school and two 24-storey apartment buildings at Spring Garden Avenue (Sanford)(✓); representing FHR Properties Inc. regarding appeals by CN Rail and GO Transit against OPA and rezoning granted to FHR to permit a mixed-use hotel at 18 York Street (✓); representing the Centre for Addiction and Mental Health against appeals by area residents opposed to the city-approved master plan to redevelop 1001 Queen Street West (MacDougall); representing Monarch Construction Limited regarding appeals for OPA and rezoning to permit three residential towers, ranging in height from 25- to 38-storeys, at Sheppard Avenue East (Dawson)(✓); representing Talon International Developments Inc. regarding appeals against an OPA granted to Talon to permit the 68-storey Trump tower at 311 Bay Street (Dawson); representing Metropolitan United Church Shelter Corporation against appeals by those opposed to the exemption of the church's shelter—Sojourn House, was allowed to continue operations at 101 Ontario Street—from the city's new emergency shelters by-law (Lantz); representing The National Ballet School regarding appeals by neighbours against variances granted to the school to permit a dormitory at 99 Maitland Street (MacDougall)(✓); representing Intracorp. Marion Hill Don Mount Ltd. and Don Mount Court Development Corporation and Toronto Community Housing Corporation against appeals of OPA and rezoning by area residents opposed to the redevelopment of Don Mount Court (MacDougall)(✓); representing 1380543 Ontario Limited regarding appeals for site plan and rezoning to permit an auto dealership at 45 Eastern

Avenue (Diamond, Inglis)(✓); representing Great Gulf (King Street) Ltd. regarding appeals for rezoning and site plan to permit a 25-storey mixed residential and commercial tower at 430 King Street West (Diamond, Tanzola)(✓); representing Sherway Gate Development Corp. (Menkes Development Corporation Ltd. and Great Gulf Homes) regarding appeals for OPA and rezoning to permit four high-rise condo towers next to Sherway Gardens at 700 Evans Avenue (Diamond, Tanzola)(✓); representing the Toronto District School Board regarding appeals by Canderel Stoneridge Equity Group for OPA, rezoning and draft plan of subdivision to permit 2,000-residential units, office towers and commercial space at the former Toronto Truck Sufferance Terminal at 2055 Kennedy Road (Teichman); representing Claudia and Mark Fieder regarding appeals by a neighbour for consent to permit a residential dwelling (Lantz); representing Mattamy (Warden) Limited regarding appeals by The Goldman Group (2BRNOT2B Holdings. Inc. and Monarch Construction) for OPA, rezoning and plan of subdivision to permit a 580-unit residential subdivision at 350 Danforth Road (Tanzola); representing Bedford at Bloor Realty Inc., 240 Bloor Realty Inc., and 242 Bloor Holdings Limited regarding appeals for two condo towers at Bloor Street and Bedford Road (Diamond, Lantz)(✓).

2. Sherman Brown Dryer Karol Gold Lebow

[RANK LAST YEAR: 1]

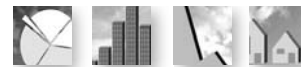
(Adam Brown, Alan Dryer)

Reasons for ranking: Adam Brown rated 20 mentions in our coverage of Toronto cases this year. Although minor variances were part of his busy workload, Brown also tackled a variety of large cases before the OMB and

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Economics Matters

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in court. He represented Loblaw Properties in the ongoing Wittington appeals, and Freddy and Wendy DeGasperis in a landmark court decision on a board-approved decision to allow residential additions. Those and other cases helped keep the firm high on the list of those to watch.

OMB/ Court Matters or Hearings: representing 426898 Ontario Ltd. regarding appeals for OPA and rezoning to permit 105 townhouses at Highway 401 and Weston Road (Brown)(✓); representing Ted Manziaris against appeals by adjacent neighbours against a below-grade garage at Dawlish Avenue (Brown); representing Ross Cammalleri regarding appeals for variances and consent to permit a three-storey dwelling (Brown)(✗); representing 2013402 Ontario Inc. regarding appeals for rezoning and variances to permit a restaurant in a former Avenue Road bank (Brown)(✓); representing Northan Realty Limited regarding appeals for variances to permit a dental office (Brown)(✓); representing Hans and Praskovia Jain regarding appeals for variances and consent to build two North York dwellings (Brown)(✗); representing 9160306 Ontario Limited regarding appeals for variances to permit a four-storey addition to an existing four-storey building at 878 Yonge Street (Brown)(✓); representing Luigina Correale against appeals by neighbours opposed to variances granted to Correale to permit a single-detached home in North York (Brown); representing the Toronto District School Board regarding appeals for site plan, OPA and rezoning to permit 79-multiple attached dwellings at 45 York Mills (Brown)(✓); representing Georgian Bond Avenue Inc. regarding appeals for OPA and rezoning to permit 45-live/work townhouses on employment land at Bond Avenue (Brown)(✗); representing Clinton Becker regarding an appeal for variances to permit a single-family dwelling (Brown)(✓); representing Diana Shuter regarding appeals for variances to permit a single-detached home (Brown)(✓); representing Loblaw Properties Limited regarding ongoing appeals by Wittington Properties for OPA and rezoning to permit two 24-storey residential towers at 450-500 Lake Shore Boulevard West (Brown); representing Solray Investments Limited against appeals by an area resident opposed to a proposed parking lot (Brown); representing David Woroch regarding variance appeals to permit a single-detached home at 45 Fleming Crescent (Brown)(✓); representing Moore Park Estates Ltd. regarding appeals by Mount Pleasant Group of Cemeteries and Vendor Developments Inc. against

variances granted to Moore Park Estates Ltd. to permit eight single-detached homes at 200-206 Moore Avenue (Brown)(✓); representing Eric and Riti Jain regarding appeals by neighbours against variances granted to permit a single-detached house (Brown); representing Paris and John Morland-Jones regarding variance appeals to permit a residential addition (Brown)(✓); representing Freddy and Wendy DeGasperis regarding a divisional court challenge of an earlier OMB decision to approve a large-residential addition to DeGasperis' home (Brown).

3. Aird & Berlis [RANK LAST YEAR: 3]

(Patrizia Bruzio (retired), Eileen Costello, Robert Doumani, Patricia Foran, Tom Halinski, Patrick Harrington, Natasha Kalogiannis (retired), Kim Kovar, Leo Longo, John Mascarin, Josephine Matera, Jane Pepino, Chris Williams, Steven Zakem)

Reasons for ranking: Aird & Berlis found success with a number of appeals for condominium developments, as well as a large mixed-use Scarborough development proposal by Canderel Stoneridge. Solicitor Jane Pepino also scored a win at divisional court to overturn a previous OMB decision that approved a residential addition for Freddy and Wendy DeGasperis.

OMB/ Court Matters or Hearings: representing One Six Nine Inc. regarding appeals for OPA, rezoning and site plan to permit a 10-storey condo at 169 John Street (Kovar)(✓); representing 713137 Ontario Ltd. regarding variance appeals to permit an additional dwelling to a four-unit building (Kovar)(✓); representing Susan Foran regarding her variance appeal to permit additional residential units in an existing Madison Avenue building (Foran)(✓); representing Junior Academy Inc. regarding the school's appeals for site plan and variances to permit additions to the private school at 235 McRae Drive (Kovar, Bruzio)(✗); representing Tiffield Development Corporation regarding consent appeals to permit residential apartments by Woodside Pointe Developments (Williams)(✓); representing De Leuw Cather Group regarding appeals for OPA and rezoning to permit two 28-storey condominium towers at 133 Wynford Drive (Kovar)(✓); representing Concord Adex Developments Corp. regarding an appeal for variances to permit townhouses and condo towers at Bremner

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Boulevard and Navy Wharf Court (Kovar)(✓); representing Concord Adex Developments Corp. regarding ongoing appeals by Wittington Properties for OPA, rezoning to permit two 24-storey residential towers at 450-500 Lake Shore Boulevard West (Kovar); representing Canderel Stoneridge Equity Group regarding appeals for OPA, rezoning and draft plan of subdivision to permit 2,000-residential units, office towers and commercial space at the former Toronto Truck Sufferance Terminal at 2055 Kennedy Road (Pepino, Costello)(✓); representing Kitson Vincent regarding a divisional court appeal to overturned a board decision to approve a large residential addition to the adjacent DeGasperis home (Pepino)(✓); representing Kitson Vincent regarding appeals by neighbours William and Janna Thatham and Wendy DeGasperis against variances to permit a residential addition at 37 Knightswood Road (Pepino); representing Fernando Iannucci regarding his opposition to two houses proposed by a neighbour (Halinski); representing Chahir Haaman regarding appeals for variances and consent to permit two single-detached dwellings at 83 Pleasant View Drive (Halinski)(X).

4. Davies Howe

[RANK LAST YEAR: 5]

(John Alati, Kim Beckman, Jeff Davies, Mark Flowers, Maria Khazanov, Michael Melling, Matthew Rey, Susan Rosenthal)

Reasons for ranking: Volume and involvement in some key cases helped Davies Howe move up one place in the ranks. The firm won appeals for redevelopment of a Spring Garden Avenue school site, and was also involved in the high-profile hearings for the Hummingbird Centre and Trump tower appeals.

OMB/ Court Matters or Hearings: representing Aneea Virani and Louise Wall regarding an appeal for variances to legalize four dwellings at Queen Street and Roncesvalles Avenue (Flowers)(✓); representing Rosedale Developments Inc. regarding an appeal for rezoning to redevelop a three-storey school and two 24-storey apartment buildings at Spring Garden Avenue (Davies, Alati)(✓); representing Davenport Huron Escarpment Residents Association regarding opposition to proposed applications by Burnac Holdings for site plan, OPA and rezoning applications by Burnac Holdings Limited to permit 483-residential

units at 700 Huron Street—the board approved revised applications for 332-units (Flowers)(✓); representing the City of Toronto regarding appeals by a neighbour against an existing basement apartment in a building owned by city councillor Cesar Palacio (Alati); representing the National Club regarding appeals against an OPA granted to Talon to permit the 68-storey Trump tower at 311 Bay Street (Davies); representing Brentwood Towers Tenants Association regarding appeals by O'Shanter to convert the Brentwood Towers apartments to condominiums (Melling); representing The Hummingbird Centre for the Performing Arts regarding appeals for OPA, rezoning and settlement of site plan to permit two residential towers and a mixed-use podium at 40 The Esplanade (Davies); representing Oakwood Retirement Communities Inc. regarding appeals for OPA, rezoning and site plan to permit a long-term care facility, retirement home and seniors' apartments (Alati)(✓); representing Bloor & Millo Co. regarding appeals for OPA, rezoning and site plan to permit 13-townhouses (Flowers)(✓); representing Lauren Freed regarding her appeal for variances to permit a house at 137 Castlewood Road (Alati)(✓).

5. WeirFoulds

[RANK LAST YEAR: 17]

(Jane Burton, Jeff Cowan, Jill Dougherty, Bruce Engell, Sean Foran, Blake Hurley, Chris Jonston now practicing law in the Cayman Islands), Connie Lanteigne, Ian Lord, Barnet Kussner, Michael McQuaid, Sue Metcalfe, Kim Mullin, Greg Richards, Wayne Rosenman, George Rust-D'Eye, Bay Ryley (no longer with the firm), Lynda Tanaka, Chris Tzekas)

Reasons for ranking: WeirFoulds shot up the list by twelve spots, thanks in part to the settlement of the contentious Bedford Tower appeals. A variety of cases also helped the firm secure a spot in the top 10.

OMB/ Court Matters or Hearings: representing Helen Draskovic who was opposed to a proposed townhouse development on school board land in North York (McQuaid); representing 1474794 Ontario Inc., Sigmund Polakow and Karen and Ellen Mistelbacher regarding appeals against variances granted to Simon Liston to permit Eva's Place municipal shelter (Lord)(X); representing John and Jim Eliopoulos

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regarding appeals by a neighbour against variances granted to permit a 12-unit residential addition to a Pape Avenue commercial property (Tzekas); representing Andrew Chabursky regarding appeals for variances to permit a three-storey addition to a converted Madison Avenue dwelling (Kussner)(✗); representing Metro Toronto Condominium Corporation 717 and the Annex Residents' Association regarding appeals by Bedford at Bloor Realty and others for two condo towers at Bloor Street and Bedford Road—the board approved revised plans for one tower atop an 8-storey podium (Lord); representing June Crampton regarding her appeals against rezoning and OPA granted to Process Matters Inc. to permit a seven-unit Kingston Road residential development (Tzekas)(✗); representing William and Janna Thatham regarding appeals by Thatham and DeGasperi against variances to permit a residential addition at 37 Knightswood Road (Tzekas).

6. Bratty & Partners

[RANK LAST YEAR: 8]

(Barry Horosko)

Reasons for ranking: Up two spots from last year, Bratty & Partners' Barry Horosko continues his firm hold in the top 10 rankings. Horosko was successful with a number of apartment tower appeals, and also with a residential redevelopment proposal for a former Canadian Tire store site in Etobicoke.

OMB/ Court Matters or Hearings: representing Christopher Bratty regarding an appeal for variances to permit an over-size existing dwelling at 4 Reigate Road (✓); representing Grande Murano Ltd. regarding appeals for site plan, OPA and rezoning to permit an 140-unit, 10-storey apartment building in North York (✓); representing Verbania Construction regarding appeals for site plan, OPA and rezoning to permit a 28-storey apartment building at 10 Chinchester Place—the board approved a revised proposal for a 20-storey, 210-unit building (✓); representing 1405012 Ontario Inc. regarding appeals for OPA, rezoning and settlement of site plan to permit a mixed-use development and 750-residential units at the site of a former Canadian Tire Store at 975 The Queensway Etobicoke (✓); representing Transmit Properties Limited regarding appeals by Canderel Stoneridge Equity Group for OPA, rezoning and draft plan of subdivision to permit 2,000-residential units, office

towers and commercial space at the former Toronto Truck Sufferance Terminal at 2055 Kennedy Road.

7. Cassels, Brock and Blackwell

[RANK LAST YEAR: 7]

(Nicole Auty, James Ayres, Ian Blue, Signe Leisk, Stanley Makuch, Michele Wright)

Reasons for ranking: Cassels, Brock and Blackwell holds onto lucky number 7, with successful appeals for two drive-through establishments and a 16-storey apartment tower at Roehampton Avenue.

OMB/ Court Matters or Hearings: representing Constance Keyser regarding her appeal against rezoning to redevelop the St. Leonard's Hotel as a halfway house for federal ex-offenders (Wright)(✗); representing The Roehampton Corporation regarding appeals for OPA and rezoning to permit a 16-storey, 143-unit apartment building at 150 Roehampton Avenue (Makuch)(✓); representing Bayview Summit Development regarding appeals for settlement of site plan to permit a Tim Hortons drive-through (Makuch)(✓); representing Paul Muchnik regarding appeals against variances granted to neighbours to permit a two-storey home (Leisk)(✓); representing TDL Groups Ltd. regarding an appeal for site plan to permit a drive-through restaurant (Makuch)(✓); representing University of Toronto regarding appeals by Bedford at Bloor Realty and others for two condo towers at Bloor Street and Bedford Road (Makuch).

8. Goodman and Carr

[RANK LAST YEAR: 12]

(Patrick Devine, Michael Kovacevic, Jason Park, Douglas Quick)

Reasons for ranking: A spate of wins and a busy year moved Goodman and Carr up five spots from last year. The firm was also involved in a number of high-profile cases, including wins for a Huron Street residential development and the residential towers proposed for 40 The Esplanade.

OMB/ Court Matters or Hearings: representing Burnac Holdings Limited regarding appeals for site plan, OPA and rezoning to permit 483-residential units at 700 Huron Street—the board approved revised applications for 332-units (Devine, Park)(✓); representing Irber Holdings Limited and other developers regarding

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Top Ten Planning Law Firms in Toronto continued from page 6

appeals for site plan, OPA and rezoning to permit a 13-storey apartment building (Devine)(✓); representing Francie Wise regarding an appeal for variances to permit an addition to a single-detached home (Park)(✓); representing Scott & Esplanade Residences Inc. regarding appeals for OPA, rezoning and settlement of site plan to permit two residential towers and a mixed-use podium at 40 The Esplanade (Devine)(✓); representing The Goldman Group regarding appeals by Goldman and 2BRNOT2B Holdings. Inc. and Monarch Construction for OPA, rezoning and plan of subdivision to permit a 580-unit Danforth Road residential subdivision (Devine, Park)(✓); representing Canadian Tire Real Estate regarding its appeals for rezoning and site plan to permit a service station and other uses at 6714 and 6736 Kingston Road (Devine)(✓).

9. Goodmans

[RANK LAST YEAR: 13]

(Anne Benedetti, David Bronskill, Darlene Gilliland (now with Universal Music), Roslyn Houser, Robert Howe, Allan Leibel, Catherine Lyons, Mark Noskiewicz, Julia Ryan (retired), Michael Stewart)

Reasons for ranking: Goodmans pops up five spots this year, representing clients in the Trump Tower and Wittington Properties appeals.

OMB/ Court Matters or Hearings: representing Fernando Gallegos regarding an appeal for variances and consent to permit two residential dwellings near Bayview and Finch avenues (Ryan)(✗); representing Satin Finish Hardwood Flooring regarding an appeal by 426989 Ontario Ltd. for OPA and rezoning to permit 105 townhouses near Highway 401 and Weston Road (Lyons); representing the Bank of Nova Scotia regarding the appeal against an OPA granted to Talon to permit the 68-storey Trump tower at 311 Bay Street (Stewart); representing area residents regarding appeals against variances granted to permit a single-detached home at Snowdon Avenue (Bronskill)(✗); representing Wittington Properties Limited regarding ongoing appeals for OPA and rezoning to permit two 24-storey residential towers at 450-500 Lake Shore Boulevard West (Noskiewicz).

10. McMillan Binch

[RANK LAST YEAR: NOT RANKED]

(Mary Flynn-Guglietti, Len Ricchetti)

Reasons for ranking: McMillan Binch is new to the Toronto list this year, but is one to watch with steady work at the board, a win for a portlands gas-fired energy plant, as well as court hearings against the proposed Splendid China Square and the DeGasperis decision to overturn a previous board approval of a residential addition.

OMB/ Court Matters or Hearings: representing Honeywood Properties Inc. regarding appeals for rezoning, draft plan of subdivision and consent to permit a subdivision at Scarborough Avenue and Morrish Road (Flynn-Guglietti)(✓); representing York Region Condominium Corporation No. 890 (Markham's Pacific Mall) in a superior court hearing against a proposal by Splendid China Square to convert a Canadian Tire store into an Asian-themed mall (Flynn-Guglietti, Ricchetti)(✓); representing Portlands Energy Centre L.P. regarding appeals for settlement of site plan to permit a gas-fired energy generation facility at 440 Unwin Avenue (Flynn-Guglietti)(✓); representing Mount Pleasant Group of Cemeteries and Vendor Developments Inc. regarding their appeals against variances granted to Moore Park Estates Ltd. to permit eight single-detached homes at 200-206 Moore Avenue (Flynn-Guglietti)(✗); representing Freddy and Wendy DeGasperis regarding a divisional court challenge of an earlier OMB decision to approve a large residential addition to DeGasperis' home (Ricchetti).

THE NEXT TEN

Based on mentions in *Novae Res Urbis—Toronto Edition*, the following make up the next ten in Toronto-based development and planning activity: (11) **Elston Watt**; (12) **Davis & Company**; (13) **Borden Ladner Gervais**; (14) **Fasken Martineau**; (15) **Miller Thomson**; (16) **Andrew Paton**; (17) **Gowlings**; (18) **Fraser Milner Casgrain**; (19) **Kagan, Shastri**; (20) **Papazian Heisey Meyers**.

To ensure that *Novae Res Urbis—Toronto Edition* covers your interesting cases, be they board decisions, development applications or court decisions, please drop us a line by email or fax. The countdown for the ninth annual ranking of the top ten firms has already begun. •

SELECTION CRITERIA PAGE 8

Film studio appeal continued from page 2

Lack of a sound stage this size in Toronto is the chief reason production of blockbuster feature films (with budgets of more than \$100 million, such as X-Men 2 and 3 and Superman 3), regularly bypass Toronto for other North American and European cities, Ferguson said.

When completed, FILMPORT is expected to generate more than \$600 million worth of economic activity in Ontario annually, support up to 2,000 person-years of employment and contribute approximately \$4.3-million in property taxes to the city.

In later phases of building, the complex will expand to 550,000-square feet of production space with more than a dozen sound stages. Development outside the studio gates will include up to 1-million square feet of offices, restaurants, conference facilities and possibly a hotel, as well as additional industrial and commercial space for related industries.

In a pre-hearing decision issued November 15, the OMB dismissed a motion by the appellants to hear the

appeal in conjunction with the *Central Waterfront Secondary Plan* hearings, or to consolidate the two appeals. The board also ruled that items contained in the lease between TEDCO and the film studio would remain confidential. (See *NRU November 25*.)

Solicitors **James Harbell** and **Aaron Platt (Stikeman, Elliott)** represent NRI Industries Inc. Solicitor **Nicholas Macos (Heenan Blaikie)** represents The Docks Entertainment Complex (**1132165 Ontario Ltd.**, **1341665 Ontario Limited** and **1536165 Ontario Ltd.**). Solicitor **Mark Flowers (Davies Howe)** represents Cinespace Film Studios (**1079744 Ontario Ltd.**). Solicitors **Andrew Biggart (Ritchie, Ketcheson, Hart & Biggart)** and **Robert Balfour** represent the City of Toronto. Solicitors **Stanley Makuch, Signe Leisk** and **Nicole Auty (Cassels, Brock)** represent Toronto Film Studios. Solicitors **Mike McQuaid** and **Kim Mullen (WeirFoulds)** represent the Toronto Economic Development Corporation. (See *OMB Case No. PL050709*.) •

Top Ten Planning Law Firms in Toronto continued from page 7

How the information was collected

Using manual research, we tracked each of the law firms mentioned in *Novae Res Urbis—Toronto Edition* (OMB News, predominately) over this one-year period. From there we determined the firms that were the most frequently mentioned and sorted through the projects and hearings with which they were involved. It became apparent that some firms (given their size) were involved in a variety of developments across the city, while others had particular associations to major clients. The original data was collected from OMB files plus our research for news 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—Toronto Edition* and does not account for the vast number of cases

and firms involved with such matters as minor variance applications, assessment 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 the lawyers that are part of the planning and development law team for each of the top ten ranked firms. Items grouped as OMB matter/court hearing are those involved with hearings, pre-hearings, and mediation sessions. In cases that involved a board decision and a clear winner/loser or settlement was determined, we note the appropriate symbol (ü) or (û) following the case description. If there was no clear win/lose or the matter involved a pre-hearing, or is still pending before the OMB, no symbol is applied. A brief reason is given at the beginning of each listed firm explaining why we ranked it as we did.

Brownfields legislation and DCs

By Anthony Romanelli

A number of builders may face unexpected development charge increases in the **City of Toronto** at the end of 2005 due to the interface between the *Brownfields Statute Law Amendment Act, 2001* and the *Building Code Act, 1992*.

On June 24, 2004, the City of Toronto approved a by-law to increase the development charges levied upon the issuance of a building permit, which came into effect on July 28, 2004. The by-law also included so-called 'grandfathering' provisions whereby a builder could avoid the development charge increases if:

Building permit application was submitted on or before December 31, 2004; and
Above-grade building permit is issued and fully paid for on or before December 31, 2005.

In an attempt to avoid increases to development charges, many builders submitted building permit applications prior to the end of 2004 and are now attempting to obtain full building permits for their projects. Some of these builders, however, are encountering problems in obtaining above-grade permits on or before December 31 because they had not remediated their sites and filed an appropriate Record of Site Condition, due to amendments to the brownfields legislation. As a result, these builders face the possibility of paying increased development charges if the permits are not issued by year end.

Beginning October 1, 2005, various amendments to the *Environmental Protection Act*—resulting from the brownfields legislation—require that a record of site condition be completed and filed with the Environmental Site Registry if the new building will be used in connection with a change in land use from industrial, commercial or community uses to residential, institutional, parkland, or agricultural uses. The record certifies that the environmental status of the property meets provincial regulatory standards and can be developed for the identified use.

Among other things the *Building Code Act* requires that a building permit be issued before construction can commence. Prior to the issuance of a building permit, the building official must ensure that the proposed building will not contravene the *Building Code Act*, the building code or any other applicable law. This means that prior to the issuance of a building permit, the building

must comply with the brownfields legislation and a record of site condition have been filed with the Environmental Site Registry.

In many cases, however, the record cannot be prepared and filed in time to allow a building permit to be issued on or before December 31, putting builders in jeopardy of paying Toronto's increased development charges.

There is a solution to the problem—notwithstanding the fact that a record has not been registered—the City of Toronto may issue a conditional permit to commence construction on the affected site pursuant to the *Building Code Act*.

There are, however, some potential drawbacks to the issuance of the conditional permit. First, the conditional permit is granted on an ad hoc basis and there is no guarantee that the permit will be granted within a particular time period, if at all.

Second, if a conditional permit is granted, the city may impose a number of conditions upon the applicant. Conditions may include the posting of additional substantial security to secure removal of the construction and restoration of the site if the record of site condition is not filed by a specified date. •

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David Miller ponders continued from page 1

Ontario,” said Miller. “It represented a critical component of the new deal for Toronto and provides important parts of the needed powers, respect and money to deliver services.”

“This legislation recognizes Toronto as the economic engine of Ontario,” said premier **Dalton McGuinty** when the legislation was tabled last week.

“This legislation recognizes Toronto as the economic engine of Ontario.”

- Dalton McGuinty

“As one of the world’s great cities, Toronto will now have the autonomy to be as dynamic, competitive and as successful as the people who have chosen to make their homes and their livings here.”

Although the tangible evidence is not quite so clear, Miller listed progress on the waterfront as the second most important event of 2005 pointing to Toronto’s new **HtO** waterfront park at Maple Leaf Quay West and the construction of a new 600-metre multi-sport watercourse in the Western Beaches as examples.

Now that Miller is officially on the board of the **Toronto Waterfront Revitalization Corporation** and its mandate formally evolved from planning to implementation, the public will expect more than the ceremonial shovels in the ground in 2006. And Miller will carry the weighty legacy of action, or inaction on the waterfront.

The third most significant event

continued page 11

NRU’s top picks for 2005 trend-shaping events

- The OMB’s ruling overturning the city’s decision on the Sherway Gate Development application for 700 Evans Avenue—city staff recommended approval of applications to amend the Etobicoke and Toronto official plans and zoning by-laws for the development of 990 units in four condominium apartment buildings ranging in height from 19 to 32 storeys, each with a three-storey podium, and 250-square metres of retail gross floor area. City council, however, turned the application down continuing an inclination towards parochial interests rather than what is best for the city. An expensive lesson, which hopefully city councillors will heed as they implement governance structure changes in the new year.
- Madame Justice Denise Bellamy’s report on the computer inquiry—the impact of the judge’s ruling on the MFP Inquiry was felt long before she put pen to paper and will hopefully be felt long after anyone remembers the names of the key players in the scandal. Bellamy’s report is referenced each time a new disgrace involving the “affairs” of human shortcomings stains the front pages. It changed, for the most part, the way in which the city does business.
- The change in the city’s administrative structure—the city’s five commissioners went into “retirement” to be replaced by two new deputy city managers, who were previously ADMs with the province. The impact of the administrative changes have had a rippling effect throughout all of the city’s rank and file and changed reporting relationships, especially between council and senior bureaucrats. With more changes to come, patience is growing thin awaiting an announcement on a general manager of economic development, tourism and culture.

NRU’s benchmark decisions for 2006

- St. Clair Avenue streetcar and other public transit improvements—Greenpeace has included public transit on its 12-step list to a greener holiday season. “When it’s time to go shopping for the perfect gift, try to take public transportation or carpool to and from the store. Every time you hop in your car, you’re burning greenhouse gases which contribute to global warming.” However, the city needs to make the TTC truly the “better way” by investing in capital and operating improvements.
- Progress on the waterfront—real progress can only be accomplished when all the key players, including the city, the province, the feds, TWRC, TEDCO, ORC, and even the Port Authority, set aside egos and territorial lines in the sand and get to work on building. And make a decision finally on the Gardiner for goodness sakes.
- The federal election and the new deal for Toronto—whoever wins on January 23 the city’s sustainability must be at the top of the next federal government’s agenda, otherwise, it could be a fight for survival for the city. The federal gas tax investments and Toronto having its own seat at the table in discussions with both Ottawa and Queen’s Park are vital to the health of Canada’s largest city.

After you have a very happy new year, make sure you vote!

David Miller ponders continued from page 10

of 2005 as far as Miller is concerned was seeing the **Toronto Transit Commission** incentives implemented.

“The various discounts on passes and other incentives such as making them transferable have made a huge difference in ridership numbers. More people are riding public transit because of the incentive programs,” Miller said.

The one issue Miller has been unsuccessful in satisfying any of his critics, however, remains to be gun violence in the city. Preventing the escalating violent crime in poverty-stricken neighbourhoods is more complex than simply throwing more money at police, Miller has said.

“Reducing the level of gun violence in the city is certainly one of my priorities for the year ahead,” Miller told *NRU*.

On a somewhat less serious, yet important note, Miller lists his second goal for 2006 as “celebrating Toronto.”

“Live with Culture is an exciting campaign so people can enjoy the city’s arts and culture,” he said.

The 16-month campaign—Live with Culture—is a series of signature events, produced by Toronto Special Events to showcase all the arts in Toronto. A marketing and promotion campaign designed to raise awareness of the city’s cultural activities, it was launched in September with the 40th anniversary of Toronto city hall and will run until the end of December 2006.

Miller’s final, and perhaps most daunting, goal for 2006 is the governance changes required “to build the city that will succeed.”

“The governing Toronto advisory panel recommended a bold, new direction for the City of Toronto, including significant changes to its governance structure,” Miller said.

“The status quo is not an option,” said **Centennial College** president and panel chair **Ann Buller**, when the report was released last month. “City council requires a dramatic change to prepare for the impending revisions to the *City of Toronto Act*.”

The panel presented an 11-recommendation plan, including advice such as improving civic engagement

Mayor David Miller and Premier Dalton McGuinty



Source: City of Toronto

and community involvement; strengthening city council’s ability to focus on city-wide priorities; creating an executive committee; providing the mayor with the tools to lead; and empowering community councils. Changes that require the city to create, pass and implement numerous new by-laws.

An ambitious agenda that will only materialize if city councillors set aside their penchant for grandstanding for the media in favour of a more co-operative work philosophy. •

“The governing Toronto advisory panel recommended a bold, new direction for the City of Toronto, including significant changes to its governance structure.”

- David Miller

**TORONTO2015
WORLDEXPO**



Request for Proposals

Issue Date: December 21, 2005

The Toronto 2015 World Expo Corporation is inviting proposals from qualified proponents to provide professional services on the following:

- 1. Site and Operations Plan RFP No. 2005 - 013**
Due: January 12, 2006 at 12 p.m.
- 2. Theme Development Strategy RFP No. 2005 - 019**
Due: January 12, 2006 at 3 p.m.
- 3. Corporate Governance Strategy RFP No. 2005 - 016**
Due: January 13, 2006 at 12 p.m.
- 4. Professional Communication Services RFP No. 2005 - 017**
Due: January 13, 2006 at 3 p.m.

To access these RFPs, link on to the Toronto 2015 World Expo Corporation official website at www.tedco.ca/2015expo.html.

Those interested in further RFPs are advised to monitor the Expo website regularly.

The Toronto 2015 World Expo Corporation has been established to undertake a series of detailed studies aimed at further testing the viability of World Expo in Toronto. The City’s Economic Development Corporation, TEDCO, has created a special subsidiary corporation to perform this due diligence.

Questions should be directed in writing to expoaa@tedco.ca.

Regent Park RFP re-issued

Toronto Community Housing Corporation has re-issued the RFP seeking a developer/builder partner for the first phase of the Regent Park revitalization project. The new bid is apparently expected to be more attractive to developers as it carries less risk—the agency is not requiring the developer to put the cash up front to purchase the land, said company spokesperson **Laurie Stephens**. The successful developer will in turn sell the units on the market with the profits going back to the housing company. There is another difference this time, Stephens added; proponents will not be required to submit designs.

Back in September, the housing company announced that **Cresford Developments Corporation** had been selected as the developer partner pending successful completion of a 60-day due diligence period. That process, however, was derailed when Cresford walked away from the deal after determining it was unable to meet its objectives under the agreement, housing company CEO **Derek Ballantyne** told *NRU* at the time. This was really no “big concern” for him because he had four other bidders to fall back on, he added. However, that was a serious concern, an expert in RFP processes told *NRU*. (See *NRU November 11*.)

The deadline for submissions is January 27.

It's Miller's time

Late last week, the Ontario legislature passed *Bill 18—the Budget Measures Act, 2005*, which supports the provincial government's commitment to build a strong economy in the province, said finance minister **Dwight Duncan**. Among other measures, the bill also supports the **Toronto Waterfront Revitalization Corporation's** transition from

planning to implementation by amending its governing legislation, which opens the door to mayor **David Miller** taking a seat on the board.

Site of first parliament buildings secured

The Ontario government, in partnership with the City of Toronto and with the strong support of local heritage groups, has acquired a significant part of the site of Upper Canada's First Parliament. The province and a private landowner have agreed to a land exchange to secure a portion of the historic site at 265 Front Street East where artefacts now lying underground mark the site of Ontario's first parliament buildings.

“The heritage community is very excited about the public acquisition of the First Parliament site,” said **Heritage Toronto** chair **Peter Carruthers**. “We look forward to working with all parties as the project progresses.”

The brick buildings built specifically for the legislative assembly in the late 18th Century were burnt to the ground by invading American troops during the War of 1812.

Ontario Heritage Trust

(formerly the Ontario Heritage Foundation) has assumed ownership of this portion of the site. The trust will work with stakeholders including the federal and Ontario governments, the city and community groups to develop options and strategies for the long-term preservation of the site.

“We are delighted to assume the lead role in the preservation of this significant heritage site,” said chair **Lincoln Alexander**. “It is the birthplace of our system of courts, land ownership and civil freedoms—democratic traditions that are the very measure of our strength as a province and as a society.”

Court upholds smoking ban in private clubs

Toronto medical officer of health Dr. **David McKeown** reported this week that the city's smoking by-law has been upheld by a court decision dismissing a restaurant's attempt to get around the smoking ban by operating as a private club. The court levied a \$4,500 fine on the restaurant for failing to prohibit smoking, just under the \$5,000 maximum.

Housing company goes green

Toronto Hydro-Electric System Ltd. is providing an incentive of \$1.6-million to **Toronto Community Housing Corporation** under its conservation and demand management program for a series of initiatives that will reduce electricity demand in housing properties by 10-megawatts. The \$30-million program will replace 23,000 old refrigerators, stoves and washing machines with new Energy Star-qualified appliances and retrofit 19 buildings with energy efficient lighting products, including building lighting—compact fluorescent light bulbs and light dimmers. •

Clarification

In the December 16 edition of *NRU*, it was reported that the City of Toronto would be posting a summary of “feedback” from a recent public meeting on the Union Station re-development. Only a summary of the presentation is available on the city's website.