

NOVÆ RES URBIS

★ **Special Report: The most prolific**
★ **municipal lawyers in Toronto** ★

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Waterfront hits centre stage



Fixed link debate continues

Tunnel option is resurrected by Lastman

The controversial fixed-link to the City Centre Airport is back after hitting rough waters at previous meetings of the urban environment and development committee (UEDC) (see *Novae Res Urbis*, May 25/98). Tomorrow, planning staff will address a comprehensive list of concerns from earlier meetings at a joint meeting of the UEDC and economic development committee (EDC). At the meeting, politicians will digest a staff report which casts doubt on the **Toronto Harbour Commissioners'** (THC) business plan and introduces the mayor's option of running a tunnel from Spadina Avenue with a possible street car track to the airport instead of a moveable bridge from Bathurst Street. The Chief Administrative Officer (CAO) is recommending that any decision on the fixed link should be deferred to the

(Continued on page 2)

'Divorce talks' heat up over harbour commission

The **Toronto Harbour Commission** (THC) is looking for "a complete divorce" from the City of Toronto and is asking for alimony of \$12.5-million per year in addition to its current operating subsidy as part of the break, according to a senior official with the THC.

Informal discussions between city staff and representatives of the THC started last month after city council authorized officials to look at options for eliminating the city's ongoing subsidy to the THC. Last Thursday, Toronto's strategic policies and priorities committee received a confidential briefing from staff involved in the discussions.

At issue is the \$2.8-million subsidy that the THC receives each year from the city; also at issue is the almost 600 acres of land that was transferred by the harbour

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Fixed Link (cont'd)

(Continued from page 1)

November 30 meeting of the UEDC in order to determine the future role and management of the airport.

THC Business Plan

Dated September 1998, the THC's airport business plan for 1998-2002 expects airport operations to generate a \$3.9-million surplus by 2002. This revenue is anticipated from a predicted passenger increase of 325% over the five-year period. This dramatic increase in passengers would be the result of new airline carriers in addition to the airport's current and only carrier – Air Ontario. To achieve these goals, the THC calls for a capital investment of \$23.7 million including \$16-million for a bridge.

Projections within the business plan are based on the assumptions that: the bridge will be in operation by late 2000; four new airlines will provide service in 1999; and the current \$10/passenger charge is still effective.

Staff find that projected revenues rely heavily on passenger user fees (PUFs). Currently representing 53% of projected 1998 revenues, PUFs would have to represent 86% of revenues by 2002 to meet revenue projections. Furthermore, staff calculate 345,000 annual passengers by 2002 instead of the 570,000 projected in the business plan. According to the staff report: *“The level of risk and uncertainty inherent in the estimates are sufficient to transform accumulated surpluses into accumulated deficits over the five year period.”*

This level of risk would be at the expense of the city. Under the current subsidy agreement between the city and the THC, the city contributes an annual sum of \$2.775-million. The agreement allows the THC to request an increase in subsidy in the event of deficits. Requiring over \$23-million by 2002, the THC business plan could actually create increased financial responsibilities for the city.

THC staff are bullish about their projections, suggesting in an interview with *Novae Res Urbis* that their projections are conservative. The projections are based on the business plans prepared by the air-carriers that will be operating at the City Centre Airport and have been validated by outside experts.

John Morand, director of strategic planning for the

THC said that during the recent Air Canada strike the island airport handled as many as 4,200 passengers per day – which translates into more than 1-million passengers per year – with no problems on the airside of the airport. The only problems were on the ferry and in the line-up to get on the ferry.

“The level of risk and uncertainty inherent in the (THC) estimates are sufficient to transform accumulated surpluses into accumulated deficits over the five year period.”

...during the recent Air Canada strike the island airport handled as many as 4,200 passengers per day – which translates into more than 1-million passengers per year...

Spadina Tunnel

So far, a \$16-million moveable bridge is the recommended fixed link from Bathurst Street across the western gap to the airport, notwithstanding that a tunnel is *“more reliable and effective for emergency response events in that it is always accessible”*. Planning staff have investigated the option of a tunnel from the foot of Spadina Avenue at the request of Mayor Mel Lastman.

Though a tunnel is listed as an option in a 1993 intergovernmental staff committee study, Spadina Avenue was not contemplated. Costs of a tunnel were estimated to be between \$35-million and \$40-million in 1996. Rather than using Bathurst Street, this tunnel option alleviates traffic concerns from residents in that area of the waterfront.

If pursued, this tunnel option would see the extension of Spadina Avenue beyond Queens Quay into the Spadina slip. From this point, the road would run west along the southern edge of the Spadina Marina and begin its decent into the western gap at an 8% grade. The resulting shallow depth tunnel would be 16 to 18 feet below the surface to accommodate the safe passage of recreational watercraft.

Officials from the THC maintain that the tunnel concept contained in the staff report does not meet building standards because there is insufficient headroom for emergency vehicles. Fire trucks would also not be able to negotiate the corner in the tunnel proposed.

According to the city's tunnel proposal, usage of the tunnel would be restricted to taxis, shuttle buses and service vehicles. In addition, the option of a streetcar track remains available due to the current operation of the Spadina-Queens Quay line. Though

not specific to Spadina Avenue, the 1993 study concluded that a two-lane tunnel could handle all vehicles to and from the airport efficiently and within preferred emergency response times. A tunnel would also prevent potential boat traffic build-ups in the western gap in the event that the arms of a drawbridge are down. Further evaluation of the

(Continued on page 3)

Fixed Link (cont'd)

(Continued from page 2)

Spadina tunnel option would require an environmental assessment separate from the one previously conducted for the bridge from Bathurst Street (see *Novae Res Urbis*, Apr.27/98).

Economic Impacts

A fixed link, in whatever form, is generally supported by the business community to increase airport's economic importance to the city. **Tourism Toronto** reports that there is an opportunity to promote weekend tourist packages from Canadian and US markets. According to the **Toronto Board of Trade**, commuting to the City Centre Airport instead of Pearson

International would create an annual cost savings of \$20-million for downtown businesses. A strong airport in the downtown is also important to city economic development staff. According to staff, the closure of the airport would create a decline in downtown business opportunities and accelerate the need for a Pickering airport. A Pickering airport would add further to the decentralization of business to other areas of the GTA, especially along the Highway 407 corridor.

Essentially, the staff position is this: determine the future of the airport before we worry about a fixed link. Once it is determined who will operate the airport, it is not a question of a fixed link but whether it will be a bridge or a tunnel. •

*For more information, please see Novae Res Urbis
Jul 27/98, Jul 20/98, Jun 29/98, Jun 22/98.*

Harbour commission talks (cont'd)

(Continued from page 1)

commission to the city and the Toronto Economic Development Corporation (TEDCO) in 1994 as part of a subsidy agreement (see *Novae Res Urbis*, Aug 17/98). Under the terms of that deal, the city agreed to subsidize the THC's operations in perpetuity and, beginning in 2000, to subsidize its capital program. This year TEDCO will pay the THC approximately \$2.4-million and the city will pay the THC approximately \$0.4-million. This amount may vary in the future as the THC's business plan for the airport projects an operating profit for the airport.

The \$12.5-million in new money that the THC wants is an estimate of their capital requirements and the taxes that they will soon be required to pay to the city. The Toronto Harbour Commission is soon to become the **Toronto Port Authority**, which will be required (like other federal bodies) to pay grants-in-lieu of taxes to the city. (City staff estimate that THC will be required to pay more than \$3-million per year in such grants-in-lieu for the 300+ acres of land that are still held by the THC).

As an alternative to the \$12.5-million, the THC would take a lump-sum payment from the city or a transfer back of some of lands that were given away in 1994.

One of the most contentious issues in the "divorce" discussions is a city-owned piece of property running through the City Centre Airport. This finger-shaped piece of property allows the city to have a role in the management of the airport through a "tripartite" agreement signed by the city, the federal government and the harbour commission. Among other things, this tripartite agreement bans jets from the airport, bans a fixed link to the airport and

establishes acceptable noise contours around the airport.

A confidential report prepared for city councillors makes it clear this piece of property owned by the city at the airport should not be relinquished. According to the report, the only land that should be considered for transfer back to the THC is land related to the operation of the port, such as dock wall sites.

The one pressing item that the city would like to get out of the negotiations with the harbour commission is some input into the letters patent for the new port authority.

The one pressing item that the city would like to get out of the negotiations with the harbour commission is some input into the letters patent for the new port authority.

Created by the *Canada Marine Act*, the city gets to appoint one representative to the port authority board, down from three appointees to the harbour commission board. The letters patent are issued by the federal minister and they describe the boundaries of the port authority, the lands that the port authority can occupy, the activities of the authority, plus *any other provisions that the minister considers appropriate*. Federal officials in the justice and transport departments are currently drafting these

letters patent – but the city wants some input.

The negotiations over the elimination of the subsidy agreement offer the city an opportunity to ensure its participation in the drafting of the letters patent – and that issue is central to the discussions over the waterfront. •

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The Top Ten Municipal Law Firms in Toronto

Ranking the city's most prolific performers

In a tribute to all those lawyers who have worked so very hard over the last year on development applications, OMB hearings, negotiations and mediations we decided to provide a brief review of their activities in the City of Toronto (former Metro Toronto) from June 1997 to July 1998, as reported in *Novae Res Urbis*.

1. McCarthy Tetrault (Steve Diamond, Cynthia MacDougall, Brad Teichman, Mary Bull, Dennis Wood, John Dawson, John Inglis)

Reason for ranking: A prolific firm involved in a large number of diverse projects across the city. We were surprised at how often the firm's name came up in our reports.

How the information was collected

With the assistance of our search engine in our website, 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 which most frequently came up and sorted out 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 new city, while others had particular associations to major clients. The original data were collected from application and OMB files plus our research for NRU stories.

Determining the top 10

This was the most difficult task in that we had to balance the number of clients, the range of projects, the difficulty of cases, as well as some unique features about the projects/cases. The other important point is that this list was determined on only items covered in NRU and in Toronto only and did not account for the vast number of cases and firms involved with items such as minor variance applications, assessment appeals and as part of a development team without our knowledge. To this degree we recognize that 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 NRU in a given matter. Items have been grouped into 1) noted development projects- those development applications that noted a solicitor on file; 2) OMB matters/hearings- those involved with hearings, pre-hearings, and mediation sessions. In cases which involved board decisions and a clear winner/loser 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, no symbol was applied; and 3) Other- an open category which noted the involvement 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.

A highly successful year at the OMB involving important projects and decisions such as the appeal on the ravine by-law and 2 and 8 Alexandra Boulevard and their involvement with the Destination: Technodome project. Represented both development and community interest groups.

Noted Development Projects: Destination: Technodome (Diamond); 123 Eglinton Avenue East (Diamond); 2 Bloor Street West (MacDougall); 326 unit apartment development in Scarborough by Aspen Ridge Homes (Diamond); Tridel's Northtown Phase II development in North York (Diamond);

OMB Matters/Hearings: representing Eglinton Walden Developments Limited on Golden Mile hearing in Scarborough (Wood); representing Agincourt Ltd. Partnership on Agincourt Mall redevelopment (Diamond, MacDougall) (✓); representing 119R Glen Road on Park Drive Ravine By-law (Teichman) (✗) on appeal to court (✓); representing Highland Farms on First Gulf Development "store-war" hearing in Scarborough (Diamond, Dawson); representing Festival Hall development (Bull, Wood) (✓); representing Kosmor Construction's proposal in Leaside Business Park (Diamond, MacDougall) (✓); representing Gabor & Popper on 2 & 8 Alexandra Blvd. Proposal (Wood) (✓); representing Richview Developments on 45 LaRose Avenue proposal in Etobicoke (Dawson) (✓); representing Norstar Development Corp. in Ontario Hydro Corridor case (Diamond); representing Kosmor Construction regarding Nobel Cherry Developments' proposal in Leaside Business Park (MacDougall); representing M&H sales proposal for 3143 Yonge Street (Diamond, MacDougall) (✓); representing Salvation Army on Yonge/Dundas redevelopment (Teichman, Inglis);

Other: provided litigation services for the former City of Scarborough.

2. Goodman Phillips & Vineberg (Catherine Lyons, Roslyn Houser, Alan Leibel, Robert Howe, Mark Noskiewicz, Alexandra Pike, Richard Storrey, Dale Lastman)

Reason for ranking: Another highly successful firm with diverse projects across the city. A good overall average of successful OMB decisions, most notably Wittington's case involving the expansion of the North York City Centre. Involved in major projects affecting the new City of Toronto in its early period. Lyons and Houser have had a busy year minding applications as well as defending them at the OMB.

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Municipal Lawyers (cont'd)

(Continued from page 4)

Development Projects: Knob Hill Farms proposed Home Depot at Eglinton & McCowan (Houser); Costco proposed power centre at Downsview (Houser); CIBC's rezoning of 5000 Yonge Street in North York (Lyons); Morningard Developments' Business Depot proposal near Sheppard & Morningside Avenue (Houser).

OMB Matters/Hearings: representing King-Sky Plaza's by-law in Scarborough (Howe); representing First Professional Management on Golden Mile hearing in Scarborough (Houser); representing First Gulf on First Gulf Development "store-war" hearing in Scarborough (Houser, Friedland); representing Ontario Hydro in Ontario Hydro Corridor case (Lyons); representing Nobel Cherry Development on Kosmor Construction's proposal in Leaside Business Park (Houser, Howe); representing Nobel Cherry Developments' proposal in Leaside Business Park (Houser, Howe); Spring Garden proposal in North York (Lyons) (✓); representing CIBC's proposal on the former Massey-Ferguson lands (Noskiewicz) (✓); representing Urbancorp/Monarch on Queens Harbour development (Leibel); representing Wittington Properties on OPA No. 393 in downtown North York (Lyons, Pike, Leibel) (✓); representing Wittington Properties at Division Court appeal by Metro Separate School Board (Storrey, Lyons) (✓); representing Proviso on Loblaw's appeal to Toronto OPA 78 in Old Stockyards district (Houser).

Other: negotiating for Maple Leaf Gardens deal with Raptors on Air Canada site (Lastman); assisting the transition team on planning and development matters (Leibel); representing Cadillac-Fairview in purchase of Tower Records store site (Noskiewicz).

3. Aird & Berlis (Jane Pepino, Leo Longo, Kim Kovar, Steve Zakem, Michael Garvey, Patricia Foran)

Reason for ranking: Like Goodman Phillips & Vineberg, a food fight champion. Involved in a large number of diverse projects across the city. Representative of a variety of interest groups. A good balance of projects by firm members.

Noted Development Projects: BC Pacific Capital Corp's proposal for 96-100 Bloor Street West (Kovar); former General Motors site in Golden Mile (Pepino, Foran); Maple Leaf Gardens proposal for railway lands and Exhibition Place (Pepino); Bayview Green Developments condo at Eglinton & Bayview (Kovar);

OMB Matters/Hearings: representing area residents on Park Drive Ravine By-law (Longo, Kovar) (✓) on appeal to court (✗); representing In-Store Marketing Corporation on First Gulf Development "store-war" hearing in Scarborough (Longo) and IPCF Properties Inc. (Zakem); representing IPCF Properties Inc. on Kosmor Construction's proposal in Leaside Business Park (Kovar); representing the Atrium on Bay Inc. on Media Tower proposal (Kovar) (✓); representing Concord Adex on their development (Pepino, Longo, Kovar) (✓); representing Loblaw Properties Limited on 380 The West Mall, Etobicoke (Zakem); representing Orlando Corporation on North York parking by-law (Longo); representing Ryerson Polytechnic University on Yonge/Dundas redevelopment (Pepino); representing South Etobicoke Industrial Employers Association against Canadian General Tower application (Pepino); representing Loblaw's appeal to Toronto OPA 78 in Old Stockyards district (Garvey, Zakem); representing James & Mary Muir regarding 16 Braeside Road in Toronto (Garvey) (✗); representing Goldlist Properties appeal of York's OPA No. 128 (Pepino).

4. Goodman and Carr (Patrick Devine, Mary Flynn-Guglietti, Steve Longo)

Reason for ranking: This firm has benefited from the strong high-end condo market this past year. Highlights include the Diamante projects and Murray Goldman's condo conversion/demolition/reconstruction on Eglinton Avenue East through the C of A. Involved in a substantial number of diverse projects across the city given the number of firm members involved. Noted successes on interesting cases at the board.

Noted Development Projects: site plan applications for Diamante's 1047 Yonge Street and "Domus" condo project in Yorkville (Devine); Murray Goldman's condo conversion of 43 Eglinton Avenue East (Devine).

OMB Matters/Hearings: representing Diamante Developments on 1047 Yonge Street proposal (Devine) (✓); representing Pacific Mall and Finch Midland Developments on King-Sky Plaza's by-law (Flynn-Guglietti); representing City Front Developments Inc. on Concord Adex Appeal (Devine); representing Dr. Bechai on North York parking by-law (Flynn-Guglietti); representing Seneca College in appeal to 5000 Yonge Street application (Devine); representing DiLorenzo, Prevedello and Palamara's hotel development on Victoria University lands (Devine, Longo) (✓); representing 60 Overlea Boulevard Ltd.'s appeal of East York's OPA No. 7 (Devine).

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Municipal Lawyers (cont'd)

(Continued from page 5)

5. Davies Howe Partners

(Jeff Davies, Michael Melling, John Alati, Kimberly Beckman)

Reason for ranking: A busy year for a relatively small shop with lots of prospects for the year ahead; this firm played a significant role in Scarborough on the Hydro corridor and in Morningside Heights. Represented other clients with narrow interests on major cases.

Noted Development Projects: Morningside Heights Landowners Group in Scarborough (Davies).

OMB Matters/Hearings: representing Graywood Investments in Ontario Hydro Corridor case (Davies); representing Yellow Moon Homes Inc. regarding former Manson Insulation site in Scarborough (Melling, Alati); representing East York Board of Education on Kosmor Construction's proposal in Leaside Business Park (Beckman, Alati); representing Trees For Toronto on Concord Adex Appeal (Alati); representing Optical Properties Inc. on Yonge/Dundas redevelopment (Melling); representing Gordian Foods Ltd. on appeal of East York parking by-law (Beckman); representing Jasamax Holdings Ltd.'s proposal for the "Bayview Ghost" site (Davies, Alati) (✓); representing Morningside Height's appeal of Scarborough OPA 974 (Davies, Melling).

6. Brown Dryer Karol

(Adam Brown)

Reason for ranking: Practically a one-person show. Although some cases dealt with relatively small matters, the issues raised in the decisions were big enough to warrant a mention in NRU. Success rate at OMB was high as well.

Noted Development Projects: Halimar Investments Ltd. site plan at 14 Prince Arthur Avenue (Brown); OPA, rezoning and site plan for 454-468 Yonge Street in Toronto involving a 9-storey residential addition (Brown).

OMB Matters/Hearings: representing Greens of Tam O'Shanter on Agincourt Mall redevelopment (Brown) (✓); representing Furfari Paving in FIBA Canning appeal (Brown) (✓); representing Orfus Realty Ltd. in 60 Overlea Boulevard Ltd.'s appeal of East York's OPA No. 7 (Brown); representing owners of 153 Bowood Avenue on controversial semis proposal (Brown) (✓); representing owners of 78 Beechwood Ave. in North York on controversial "after-the-fact" variances (Brown) (✓); representing owners of 9 Lockheed Boulevard in Etobicoke on interesting lot frontage variance (✓).

7. Osler Hoskin Harcourt

(Stan Stein, Michael Bowman)

Reason for ranking: Strong attachment to a substantial client base across the city.

OMB Matters/Hearings: representing Loblaw's Properties on Golden Mile hearing in Scarborough (Stein); representing Anndale Properties limited on OPA No. 393 in downtown North York (Bowman, Stein) (×); representing Anndale Properties Limited at Division Court appeal by Metro Separate School Board; representing Victoria University regarding DiLorenzo, et al hotel development (Stein, Bowman) (✓); representing Hudson's Bay Co. and Zellers Inc. on Noble Cherry Developments proposal in Leaside Business Park (Stein); representing Loblaw's Properties on Etobicoke's OPA No. 48 (✓).

8. Weir & Foulds

(Michael McQuaid, Bruce Engell)

Reason for ranking: Strong attachment to substantial client base across the city, but the firm name doesn't come up as often as we expected. Perhaps their work is more focussed on the GTA. Merit award for taking on ravine by-law appeal *pro bono* and winning.

OMB Matters/Hearings: representing Sevendon Holdings Limited on Golden Mile hearing in Scarborough (McQuaid); representing West Hill Redevelopment Company Limited on compensation matter (McQuaid); representing Shell Canada Products Limited on North York parking by-law (Engell); representing Vera Dickinson *pro bono* on her appeal of the ravine control by-law (✓).

Other: provided litigation work for the former municipality of Metro Toronto.

9. Borden & Elliot

(Bruce Coburn, Steve Waque, Steve Iczkovitz, Sean Gosnell, John Patterson, Tim Buckley, Dennis O'Connor)

Reason for ranking: Involved in a variety of cases, but the Yonge Dundas victory representing the city stands out as the high point of the year..

OMB Matters/Hearings: representing Toronto District School Board regarding former Manson Insulation site in Scarborough (Coburn); representing Humber College on Queens Plate subdivision in Etobicoke (Iczkovitz); representing the City of Toronto on Yonge/Dundas redevelopment (Waque, Gosnell, Patterson) (✓).

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Municipal Lawyers (cont'd)

(Continued from page 6)

Other: represented Loblaws on real estate matters concerning Heath Park site (Gross); representing Ontario Place in Sportcom 2000 case (Buckley, O'Connor); representing the interests of Ontario Realty Corporation (Itzkovitz); represent Edward Gadzala regarding the motel strip expropriation in Etobicoke (Gosnell); provided litigation work for the former municipalities of York and Metro Toronto.

10. Smith Lyons

(Bob Onyschuk, James Ayres, Tom Hawkins, Michael Kivacevic)

Reason for ranking: Battled the Yonge/Dundas development for the underdogs; involved in significant development projects.

Noted Development Projects: Ramgold Developments, Sears site in Golden Mile (Onyschuk); Newport Beach Developments in Etobicoke (Onyschuk).

OMB Matters/Hearings: representing Billman Investments Inc. on Yonge/Dundas redevelopment (Onyschuk, Hawkins) (×); representing Ed Mirvish Enterprises regarding charity bingo hall at 754 Bathurst Street (Ayres) (✓); representing Arrowhead Metals regarding the Canadian General Tower application (Kovacevic).

The Next Ten

Based on mentions in NRU the following firms make up *The Next Ten* in Toronto-based development activity: **Cassels Brock Blackwell; Gowling Strathy & Henderson; Thompson, Rogers; Gardiner, Roberts; Miller Thomson; Reble, Ritchie, Green, Ketcheson; Loopstra, Nixon & McLeish; Kerzner, Papazian, MacDermid; Kagan Zucker Feldbloom Shastri; and Blake, Cassels & Graydon.**

To ensure that NRU covers your interesting cases, please drop us an email or fax. The tally for next year's Top Ten has already started. •

Rumours and Rumbblings

Olivia Chow and Mel Lastman have little or nothing in common, except perhaps 1) immigrant working parents; 2) a soft spot for children; and 3) an affinity for Kensington Market. She is an activist New Democrat, comfortable protesting on the lawns of Queen's Park, an SOB (south of Bloor); he is a conservative, comfortable in Florida, North Yorker. Worlds apart.

Chow was a virulent Lastman critic during last year's campaign.

This year they are best buddies.

Since the start of his administration Lastman has deferred to Chow on major initiatives related to children and youth; earlier in the summer, when Lastman and Chow met jointly with a delegation of squeegee kids, he was attentive and caring. Insiders say that she has this effect on him. (A few days later, at council, he railed against the very same kids, sounding like a hawk. Maybe they should rearrange the seating plan at council.)

Chow reciprocates by dishing out media opportunities for the mayor and by biting her tongue over the mayor's tax freeze program and how it is affecting children and families in need. The silence is deafening.

The mayor's staff like Chow because she is pragmatic and she gets to the point quickly – they can also hand things off to Chow that they don't really understand or that are not part of their core agenda.

The mayor's bridge-building with certain downtown New Democrats – Chow, **Kyle Rae, Jack Layton** (Chow's husband) and **Joe Pantalone** – has surprised his harshest critics and has dumbfounded his closest supporters. It is a

cornerstone of the Lastman administration.

But Chow's pragmatism goes beyond reaching out to Mel.

Two weeks ago, at the budget committee, Chow helped to avert the city's encroachment on the Toronto Atmospheric Fund's \$25-million endowment by working with budget chair **Tom Jakobek** – her polar opposite on council. They cobbled together a workable compromise whereby TAF would support projects across the new Toronto, with increasing support for city-initiated retrofit and works projects. They also tightened up TAF reporting. Everyone wins.

Jakobek publicly and magnanimously deferred to Chow at the budget committee. Privately he will acknowledge her pragmatism and likeability. He likes working with her.

It is notable that the Chow-Jakobek patchwork at budget committee occurred the day after Jakobek launched a public attack over Jack Layton's spending practices. Layton, chair of TAF, couldn't get through to Jakobek — but Olivia Chow could.

When confronted with the trend, Chow is matter of fact: there is a time to protest, especially when trying to raise the public profile of an issue or to solidify her base of support, but it is better to play "peacemaker" and to get things done.

Several weeks ago we reported on the hostility that has permeated the Scarborough caucus and how it is affecting city business. Perhaps they could learn from Chow, Lastman and Jakobek. •

Rumours and rumbblings is your unofficial source of political intelligence at city hall.

The Yacht Club sales halted

Monarch/Urbancorp Waterfront Development Inc. has suspended sales at The Yacht Club development at 2 Stadium Road and Monarch has pulled out of its joint venture with Urbancorp because the vendor of the site, **Huang & Danczkay**, could not provide clear title to the site, according to sources at the companies involved.

Over 140 units of the almost 600 units planned for the site had been sold, representing nearly half of the first phase, but these deals had to be cancelled because of a judgement on title resulting from an earlier aborted development on that site.

In May 1996 a trial judge awarded just under \$5-million plus interest to purchasers of the original Huang & Danczkay condos at the Stadium Road site. On June 19 an appeal of that judgement was dismissed.

In appeal, Huang & Danczkay argued that the failure to obtain municipal approval for the project was "entirely beyond what was contemplated by the parties." The court did not agree. In its decision, the court referred to clause 38 of the agreement with purchasers to prove that the developer did in fact anticipate the risk that the project may not receive approval. Under the clause, the developer could terminate the purchase agreements without liability until June 30, 1988. Huang & Danczkay did not do this. Furthermore, the court also found that "...the appellant failed to use reasonable efforts and failed to take all reasonable steps to obtain the municipal approval required for the proposed project."

Representatives of Huang & Danczkay did not return calls to *Novae Res Urbis*.

Although the companies involved in the latest development on the site are claiming that it is the title issue that has complicated the development and caused Monarch to pull out, behind the scenes observers cite sluggish sales and the prospect of a weakening condo market for the retreat.

The project represented "above average risk," according to a source at Monarch. The project could have been a "home run" -- but the home run never materialized.

The project is in a "state of suspended animation," said **Ann Martin**, of Urbancorp, who is looking to revive the project without Monarch.

Marketing staff for the project remain bullish about the prospects for the site, given the limited inventory of waterfront developments in the city.

The 2.2-acre site was to be developed by Monarch/Urbancorp for a 13 storey (36.5 m height) luxury condominium involving 586 units at a density of 5.16 FSI. •

Olmstead: a man who made large moves

By Glenn Miller

Best selling author and architect **Witold Rybczynski** launched the CUI/Urban Forum "Great Cities! Great Expectations!" lecture series at the Design Exchange last Thursday night with a thoughtful and provocative retrospective on the life and times of **Frederick Law Olmstead**.

Olmstead stands out against a backdrop of dismal performances by planners in North America over the past century, Rybczynski suggested. Olmstead's sometimes contradictory style has left its mark from Central Park to Park Mont Royal in Montreal and many other cities. He worked with nature but was no environmentalist, displaying talents akin to Disney in some instances but in others managing to create a unique sense of place by using topography and diverse materials to advantage.

Clients hiring Olmstead always "got more than they bargained for," Rybczynski said. To connect parks, Olmstead invented the parkway (in Boston). To link parks to the core city, he came up with the first garden suburb (Chicago). Could Olmstead's methods work today? Probably not, Rybczynski mused. "It's impossible to achieve anything like Olmstead did because of the need to reach consensus with so many stakeholders." His genius was not needing to complete every detail. "Designing a finished product is a good way to design a building," Rybczynski concluded, "but a disastrous way to plan a city. We could learn from his example."

Organized by the Canadian Urban Institute with support from OAA, OALA, OPPI and OSEM, and sponsored by Concord Adex, Neptis Foundation and CMHC, "Great Cities!" returns on October 29 with Allan Jacobs, author of *Great Streets*. •

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Back issues of
NOVAE RES URBIS

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City targets Hydro Commissioners

Politicians on Toronto's powerful strategic policies and priorities committee want to drop the current citizen appointees from the **Toronto Hydro Commission** effective October 30 and replace them with city councillors on an interim basis until a more powerful citizen board can be recruited early next year.

The surprise move, led primarily by Councillors **Betty Disero** (Davenport) and **Dennis Fotinos** (Davenport), came about as the city prepares to launch Toronto Hydro into an era of increased competition. The ousting must now be ratified by city council this week.

Disero, chair of the city's works and utilities committee and a member of the Toronto Hydro board, launched a strong critique of her board colleagues, accusing them of excessive travel and inappropriate expense practices.

One commissioner contacted by *Novae Res Urbis* wondered how Disero could judge the board because "she shows up late for meetings and leaves early."

The issue arose as the strategic policies and priorities committee considered a plan to hire an executive search firm to recruit a powerful new board. Under provincial plans to deregulate electricity markets in Ontario, Toronto Hydro is soon to become an OBCA company. As Toronto Hydro's one and only shareholder, the City of Toronto will have the authority to appoint the new board.

The current members of the Toronto Hydro board were appointed from each of the former municipalities in Metro Toronto. They are: **Mark Ashnan** (Chair), **John Alati**, **Carl Anderson**, **Doug Beatty**, **Bob Currie**, Councillor **Betty Disero**, Councillor **Jack Layton**, Councillor **Doug Mahood**, **Catherine Sherrard**. •

Toronto Hydro confirms cogeneration project

Toronto Hydro officials have confirmed that they will participate in the development of a 109 megawatt cogeneration plant on the site of the **Paperboard Industries** plant in the east port lands in conjunction with **Boralux Inc.** of Montreal. The project is set to be announced in early October.

Steam from the facility will be used for the Paperboard Industries plant at 495 Commissioners Street and for the nearby city-run Main Treatment Plant. The cogen facility will also produce electricity for Paperboard and for Toronto Hydro. There are no other plans to sell steam to nearby companies or to compete with the **Toronto District Heating Company** which sells steam to downtown office properties (see *Novae Res Urbis*, Sep 8/98). •

Update: Long-term waste disposal

Two proponents have been short-listed to guide the city through its search for long-term waste disposal options, according to staff assigned to the project.

Six companies were asked to respond to a competitive call for consulting services for the city's long-term waste disposal process. **Proctor and Redfern Ltd.** /**MacViro Consultants Inc.** submitted a joint response to the call. **Conestoga-Rovers & Associates** also responded. This week the commissioner of works and emergency services will report to city councillors on the recommended consulting company.

On Thursday the commissioner of works and emergency services will also report to city council on a process, timetable and budget for the department's long-term waste disposal project. Earlier this month councillors on the works and utilities committee abandoned the environmental assessment process started by Metro Toronto in favour of a fast-track process that would go directly to the marketplace for bids on handling the city's solid waste.

Once city council approves the budget and process this week staff are expected to move quickly to seek expressions of interest from companies in the waste management sector. •

TDHC goes private

The **Toronto District Heating Corporation** is seeking to become a private company under the Ontario *Corporations Act (Ontario)*, according to a report prepared for last week's meeting of the city's strategic policies and priorities committee.

TDHC, created by provincial statute in 1980, operates steam plants and a steam distribution system to supply local users. TDHC is not owned by the city, nor is it a local board; it is a non-profit organization governed by a ten member board of directors. Of the members, four are appointed by the city, two are appointed by the province, two are appointed by the University of Toronto and two are appointed by a group of five downtown hospitals.

Changing the status of the TDHC would allow the organization to hold and issue shares, borrow money and realize profits – which it is not currently permitted to do. TDHC's proposal is endorsed by the commissioner of works and emergency services and the city's CAO. •

Toronto's bill from the Province of Ontario for social housing from January to June, 1998:

\$106,117,704.99

• DEVELOPMENT NEWS •

—TORONTO—

Downtown office tower would preserve historic bank building

An 18-storey, 34,000 sq.m office building by **O&Y Properties Corporation** is being proposed for the northeast corner of Yonge and Queen Streets (see *Novae Res Urbis* Aug.24/98). The 0.3 ha. site contains three existing structures including the 88-year old **Bank of Montreal** and the **Toronto Athletic Club**. According to the site plan submitted September 17, the exterior walls of the bank will be preserved and the foyer's plaster ceiling will be restored. Heading up the preservation studies is architect **Michael McClelland** of **E.R.A. Architects Inc.** with **Lido Wall Sytems** and **Multi-Cast Architectural Moulding**. Designated under the *Ontario Heritage Act*, the bank was designed by the Toronto firm of **Darling & Pearson** in the *Edwardian Baroque* style.

Recent property acquisitions along Yonge Street (173, 177, 181, 185, 187), Queen Street (10,12,16), and Victoria Street (144 & 146) will enable the office building to be set back from the street while still maintaining a strong street presence through the bank building at the street corner. In addition, 1,100 sq.m. of at grade retail is proposed. Though still in the initial stages, the plans also call for the construction of a two level underground parking garage and the relocation of the Queen subway station to the building's interior. Also on the consulting team is architect **Brian Andrew** of **The Webb Zerafa Menkes Housden Partnership**.

—Scarborough—

“Aberdeen Market” for Milliken

As reported in *Novae Res Urbis* on Aug.5/98, **BFC Construction Corporation** is proposing a *seniors residential hotel* for the current site of their head office and storage facility at 3660 Midland Avenue, west of McNicoll Avenue. Since then, we have learned that the OPA and rezoning applications also include 12,000 sq.m. of commercial uses as part of the proposed “*Aberdeen Market*”. Commercial uses will be in the form of small-scale retail establishments in 11, one and two-storey buildings. Though plans are still conceptual, the buildings will be oriented to form a pedestrian square to create a “*bazaar*” character.

On the consulting team are **Canopy Development Corporation** with **Barry Lyon** of **N. Barry Lyon Consultants Limited** (project management); engineers **Nancy Mather** and **Greg Cook** of **Cosburn Patterson Mather Limited** (site servicing); and solicitor **Steve Diamond** of **McCarthy Tetrault**. •

Further refinements to city's hydro corridor plan

Residents associations make suggestions to staff

As the OMB hearing approaches, planning staff are going into high gear to finalize the city's alternative development proposal for the Scarborough Hydro Corridor. At a special community council meeting held September 22, staff requested politicians to consider five refinements to their plan, the alternative to the residential/commercial proposal by **Graywood Investments Ltd** (see *Novae Res Urbis* Aug.31/98). Addressing density, open space and church uses, the suggested refinements are a product of the September 18 meeting between Graywood, community groups and planning staff (see *Novae Res Urbis* Sep.21/98). The city's plan will go before city council for endorsement on October 1. That leaves just four days to direct the city solicitor before the October 5 OMB hearing.

The refinements to the city's residential and open space plan for the subject lands address the concerns of the neighbouring **Wishing Well Acres**, **North Bridlewood** and **Bridlewood** residents associations. As reflected in the latest staff report, the associations requested: a trail widening through the potential Consumer's Gas corridor; limiting residential development north of Huntingdale Drive to 37 uph; and permitting a place of worship in the medium density residential blocks on Sheppard Avenue.

Staff are still encouraging the city to explore options to purchase lands in order to preserve open space. According to the latest report, the city has “*some, albeit limited, funds available for land acquisition...*”. The report also says that Graywood is open to land exchanges with the city “*on a fair market value basis*”. •

GTA/905
Development News

& NOVAE RES URBIS

COVERING DEVELOPMENT FROM
BURLINGTON TO OSHAWA
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• ONTARIO MUNICIPAL BOARD NEWS •

—SCARBOROUGH—

Last prehearing for Golden Mile food fight

In a decision issued September 22, board member **Brian Jackson** deferred the appeals by **Lebovic, Sears Canada** and the **Ontario Realty Corporation** with respect to food retailing policies in Scarborough's Golden Mile. The appellants were absent at the final prehearing conference held August 31. The appeals relate to OPA 965 and specifically performance standard 231 which permits food stores greater than 700 sq.m. Set to begin November 9, Phase I of the hearing will consider planning rationale behind the appeals of Scarborough's food retailing policies. If necessary, Phase II will be held in 1999 to consider market evidence.

Solicitors involved are **Brendan O'Callaghan** for the **City of Toronto**; **Michael McQuaid (Weir & Foulds)** for **Sevendon Holdings Limited**; **Stan Stein (Osler Hoskin Harcourt)** for **Loblaws Properties Limited** and **Dennis Wood (McCarthy Tetrault)** for **Eglinton Walden Developments Limited** and others (see *Novae Res Urbis* Mar.9 and Jun.8/98) (see OMB Case No PL96792).

Hydro corridor heads to hearing

At the third and final prehearing conference held September 8 to consider plans of subdivision by **Graywood Investments Ltd.**, the board was informed of the city's alternate development proposal for the hydro corridor. In a decision issued September 18, board member **Susan Rogers** stated that the hearing will become "*more complex*" as a result of the city's position and will take a minimum of 15 to 20 days. Now that the city has a firm position on the hydro lands north of Highway 401, the board will approach development proposals south of the 401 separately.

For lands south of the 401, **Norstar Development Corporation's** subdivision applications will become appealable on October 5. In anticipation of the appeal, the board has set a 10-day hearing to begin February 22, 1999 on the Norstar matters. The Graywood hearing will begin on October 5.

Involved in the case are **Brendan O'Callaghan** and **John Paton** for the **City of Toronto**; **David Tang (Gowling, Strathy & Henderson)** for **North Bridlewood Residents Association**; **Cynthia MacDougall (McCarthy Tetrault)** for **Norstar Development Corporation**; **Catherine Lyons (Goodman Phillips & Vineberg)** for **Ontario Hydro**; **Jeff**

Davies and **John Alati** for **Graywood Investments Limited**; and **Michael Izzard** for **South Bridlewood Residents Association**, **Wishing Well Residents Association** and **York Condominium No.337** (see *Novae Res Urbis* Jun.1/98) (see OMB Case No.PL980029).

—ETOBICOKE—

Restaurants approved for active hydro corridor

A recent board decision which is precedent setting for active hydro corridors proves that Scarborough is not the only area subject to hydro corridor development pressures. On September 3, board member **Gary Harron** approved the OPA and rezoning applications by **Ontario Hydro** and **Timwen Partnership (The TDL Group Ltd. and Wendy's Restaurants Canada)** to construct **Tim Hortons** and **Wendy's** restaurants on 0.7 ha. of active hydro corridor located on the northwest corner of Dundas Street West and Aukland Road, near the Kipling subway station. The decision also grants the restaurant proponents a 20-year lease on the lands.

Unlike passive recreational uses associated with hydro corridors used for transmission purposes, the board encouraged a more intensive use of the lands despite opposition from area residents and the city. Investigating the potential dangers of the corridor's electromagnetic field (EMF), engineer **Stuart Harvey** prepared a report that concluded that EMF levels are within acceptable standards and would pose no threat to restaurant patrons.

Though city planning staff recommended approval of the proposal, solicitor **Andrew Biggart (Reble, Ritchie, Green & Ketcheson)** represented city council's position in opposition to the plan. Also in opposition were area residents who believed that the subject lands should be reserved for open space and recreational uses. Under the official plan, no buildings are permitted for the lands although the *Kipling/Islington City Centre Secondary Plan* permits office/commercial uses in close proximity to subway stations.

Presenting evidence on behalf of the applicants, planner **Julius De Ruyter (PMG Planning Consultants)** argued that the proposal would "*fill in the gaps*" to the existing commercial strip on Dundas Street. Furthermore, it was argued that the proposed restaurant would not adversely affect local traffic. The board agreed.

Representing Ontario Hydro and Timwen Partnership was solicitor **Lynda Townsend**. Presenting transportation evidence on behalf of the applicants were **Tyrone Gan (iTrans Consulting Inc.)** and city transportation manager **Allan Smithies** by subpoena (see OMB Case. No.PL971123). •

Mark These Dates

- Sept 28,** Monday, 10:00 am. **Children and Youth Action Committee** meets at Metro Hall in Committee Rm C.
- Sept 28,** Monday, 2:00 pm. **Task Force on Community Safety** meets at Metro Hall in Committee Room 27th floor.
- Sept 29,** Tuesday, 9:30 a.m., **Joint Meeting of the Urban Environment and Development Committee and the Economic Development Committee** at the Council Chamber, Metro Hall, to consider the proposed fixed link to the city centre airport.
- Sept 29,** Tuesday, 2:00 pm. **Assessment and Tax Policy Task Force** at Metro Hall in Committee Rm A
- Oct 1-2,** Thursday and Friday, starting at 9:30 a.m., **City Council** meets at Metro Hall.
- Oct 5-6,** Monday and Tuesday, starting at 9:30 a.m. **Urban Environment and Development Committee** meets at Metro Hall.
- Oct 6,** Tuesday, 9:30 p.m. **Emergency & Protective Services** meets at Metro Hall.
- Oct 7,** Wednesday, 9:30 a.m. **Works & Utilities Committee** meets at Metro Hall.
- Oct 7,** Wednesday, 7:00 p.m. **Main Treatment Plant Neighbourhood Liaison Committee** meets about the biosolids project. Meets at the Royal. Canadian Legion 243 Coxwell Ave.
- Oct. 7,** Wednesday, 7:30 pm., **Alessandro Mendini, The Poetry of Design**, Design Exchange Lecture Series, 234 Bay St.
- Oct 8,** Thursday, 9:30 a.m. **Community & Neighbourhood Services Committee** meets at Metro Hall.
- Oct 9,** Friday, 9:30 a.m. **Corporate Services Committee** meets at Metro Hall.
- Oct 12,** Monday **THANKSGIVING DAY**
- Oct 13,** Tuesday, 9:30 am. **Budget Committee** meets at Metro Hall.
- Oct 14-15,** Wednesday and Thursday, 9:30 a.m. **Community Councils** held in Toronto, Etobicoke, North York, York, East York and Scarborough.
- Oct 16,** Friday, 9:30 am. **Special Committee to Review the Final Report of the Toronto Transition Team** meets at Metro Hall Room 310.
- Oct 19,** Monday, 9:30 a.m., **Economic Development Committee** at Metro Hall.
- Oct 20,** Tuesday, 9:30 a.m., **Strategic Policies and Priorities Committee** meets at Metro Hall.
- Oct 21,** Wednesday, 7:30 p.m. **Olympic Bid Public Meeting** meets at the North York Civic Centre.
- Oct 22,** Thursday, 7:45 am. **The Challenge of Global Competition For The Banking Sector: What It Means For Toronto And For TD**, presented by Canadian Urban Institute at Metro Hall 55 John St. Room 308 For Info call 598-1606 ext. 234.
- Oct 22,** Thursday, 3:00 p.m. **After the Sprawl?: Suburban Past and Futures in the GTA.** GTA Forum to follow featuring Anne Golden, Milt Farrow, Ken Cameron and Mayor Steve Parrish meets at City of Toronto Archives, 255 Spadina Road. Contact Frances Friskin 416-480-2313.

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Jane Pitfield Wins East York By-Election with 42% of Votes

Jane Pitfield was elected in the East York by-election held on September 24, 1998. The by-election was called after a third seat was created in East York to balance the per capita representation with the rest of the amalgamated city.

A first time councillor, Ms. Pitfield served as a Trustee for the East York Board of Education from 1993-1997. She has also served her community on several local charitable and community boards.

Jane Pitfield is a graduate of Queen's University and had a successful career in marketing and sales with Proctor and Gamble before politics. She lives in East York with her family.

As a councillor, Ms. Pitfield will be advocating for an increased role for community councils in the creation of by-laws. She is seeking enhanced services in East York. Yet with a reputation as a small "c" conservative, she is also promising to hold the line on taxes. •

city people