

The Land Economist

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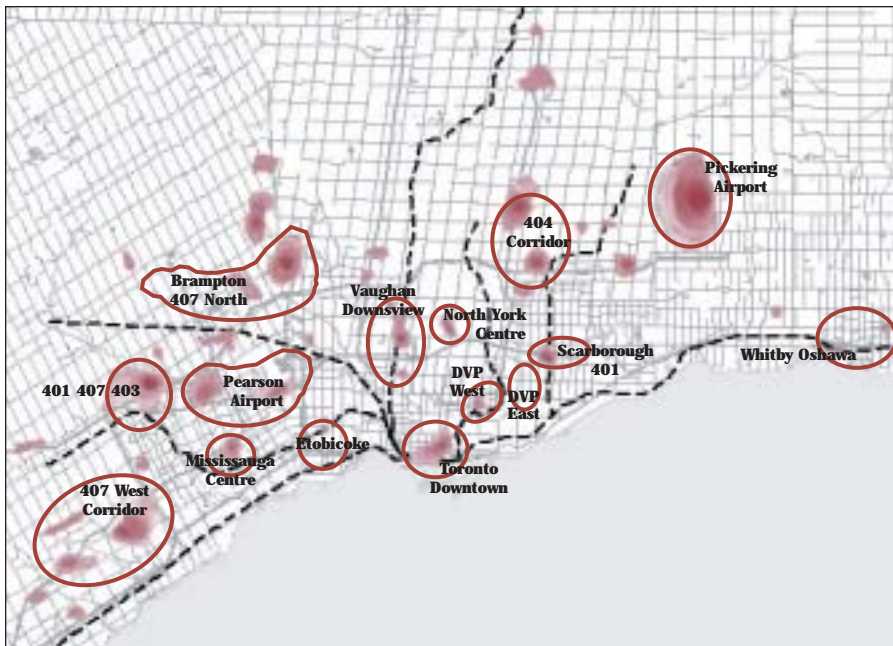
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PHOTO COURTESY YORK REGION

Ridership on York Region Transit/VIVA climbed 12.4 per cent in 2006 – the highest growth rate in Greater Toronto, representing about 69,000 trips every weekday. York Region Chair/CEO Bill Fisch said last month that York's investments in transit are attracting more and more users, year after year. In March, the federal government announced \$697 million for the York subway extension to Vaughan, as part of its long-awaited \$962 million for GTA transportation. Other projects include Brampton's AcceleRide, Mississauga's bus rapid transit corridor, Durham's rapid transit planning, and highways 407, 404 and 7.



Possible new areas of employment growth by 2031.

Transportation study drives home the issues

With Transportation Challenges in the GTA, a study team led by Dr. Richard Soberman and funded by the Residential and Civil Construction Alliance of Ontario weighs in on the crucial issues facing the new Greater Toronto Transportation Authority (GTTA).

It says the new Authority should assess the GTA's transportation needs and priorities based on:

- GTA priorities for integration
- improving the efficiency of goods movements
- most effective means of achieving more sustainable transportation.

Effective governance "is key, because it determines how, when, and for what purpose funding is allocated," the study says. The culture of political appointments of elected officials should be modified. "Governance bodies need to provide executive oversight in ways that are sensitive to long term needs, guarantee objectivity, and offer a diversity of relevant experience and expertise."

The availability of predictable, long term funding is almost as important, it continues. "No organization can function

properly in the absence of predictable revenues." Provincial and federal funding should become 'plan oriented' rather than 'project oriented'.

And the GTTA should control the allocation of a substantial proportion of both provincial and federal (excluding the Gas Tax Transfer) funding for GTA transportation, the study says. "Experience with the Greater Toronto Services Board proves that without funding leverage, regional authorities cannot achieve meaningful accomplishments."

Integration of transit service and fares is essential. The first step should focus on 'seamless' transit that connects the TTC, YRT, Mississauga Transit, and GO Transit.

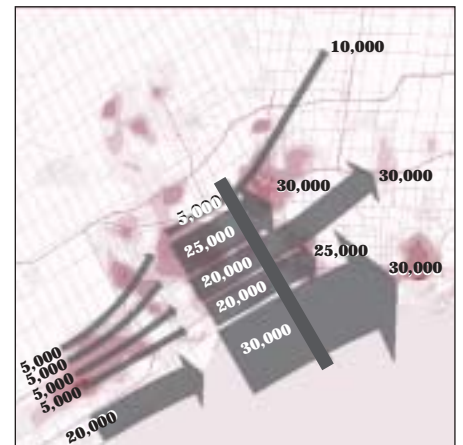
Efficiency in the use of limited funds must drive transit priorities, it continues - aimed at "achieving broader coverage and better service for the greatest number of people".

Roads will continue to be a big factor. Current provincial forecasts of growth distribution assume a very high degree of intensification and transit use.

This represents "a major shift in the



Anticipated major flows, morning trips across Brampton/Mississauga Screenline.



Anticipated major flows, morning trips across Central West Toronto Screenline.

and commute", the study warns.

Even with this shift, "there is no doubt that road expansion will be required in many areas of the GTA and some areas within the City". If it doesn't take place as expected, then requirements for road expansion "will be even more significant."

It recommends working with private sector investment. "In particular, municipalities within the GTA should give more serious consideration to alternative methods, such as contracting on the basis of 'design, build, and maintain', to expand transportation infrastructure at lower cost."

Last on this list, but by no means least, "the Environmental Assessment process must be revised so that it does not merely continue as a vehicle for interminable delay."

Transportation Challenges in the GTA was released in November.

GTTA takes on gridlock

by Rowena Moyes

The key task for the new Greater Toronto Transportation Authority (GTTA) is to marry good public policy with good strategic projects, says Rob MacIsaac.

The chair of the new body told the Association of Ontario Land Economists February meeting that most of the research has already been done. "What we need now is an integrated long-range plan, with a principles-based analytical framework that will allow us to set priorities."

The GTTA has been given a mandate to coordinate all the different modes of transportation that exist in the land between Durham and Hamilton. Competing priorities and lack of clout/funding have plagued previous attempts to do this – and MacIsaac has no illusions about the challenges. "If the issues were easy to fix, someone would have fixed them already," he said. However, "if I didn't think this was possible, I wouldn't have taken it on."

4th worst gridlock in NA

There is a growing awareness of the problems: The city-region already has the fourth worst traffic gridlock in North America. By 2031, its population is expected to grow by half again. "That's like plunking a city the size of Montreal down here."

For years, transportation infrastructure has been seriously underfunded, and decisions have been ad hoc rather than strategic. At the same time, as set out in the Places to Grow initiative, the region needs to foster a major move towards transit. "In a growing region like this, there will have to be some more roads, but our incredible reliance on the automobile is going to have to shift," MacIsaac said.

"This may be our last, best chance. If we want Toronto to be an alpha city in the world order, we cannot continue on the current trajectory." Other cities have taken on the challenge and are moving on these issues.

It will cost billions, but Ontario is a wealthy society – and the costs will be spread over many people, and over many years, and be beneficial to the economy,

the environment and the people who live here, he said. Besides, the TD Bank has said that the cost of not addressing transportation issues is \$2 billion a year.

"We should be able to do this; we just need the political will and wherewithal."

The post-speech Q and A highlighted some of the issues.

Vaughan subway

Steve Mullins said the plans for a subway to Vaughan should be stopped right away because of the low density of development there. Although MacIsaac did not comment on that specific project, he did opine that LRT is "going to provide the biggest bang for the buck going forward."

Andy Manahan stressed that the Environmental Assessment process needs to be streamlined. "We're seeking a meeting with the Minister of the Environment to express concerns about how cumbersome the EA process is and what we can do to make it better," MacIsaac responded.

Mississauga Mayor and new honorary AOLE member Hazel McCallion talked about some of the problems in GO Transit: "The tracks are owned by CN-CP ... transit is competing with freight on the same tracks." Proposals to add track face resident opposition, there's not enough parking – and never enough money. Also, "when the 401 gets delayed, there are no calls to the editor, but if GO gets delayed, it's front page news," she said.

Fix funding issues

Bonnie Bowerman said that private sector investment won't happen without stable, ongoing funding. Tariq Abavi pointed out that Madrid, which MacIsaac says has built more km of subway in the last 10 years than Toronto has in its whole system, gets a lot of money from the European Union. Another member pointed out that without control over funding and decision-making, previous bodies "have not lasted long". MacIsaac agreed. "I think this agency will have to evolve," he said.

While there was much discussion of the need for more money, and different tools that should be investigated, Mayor McCallion cut to the core: "If we could



Update: Rob MacIsaac welcomed the March 6 federal funding for already planned projects. However, he said, "this really represents only an increment of what we need over the longer term. Fundamentally, we require a sustained funding program."

set priorities for the small amount of money that IS available to go around, that would be an accomplishment second to none."

Report early in 2008

MacIsaac's target is to complete the integrated plan by the first quarter of 2008. It will include recommendations for a funding mechanism designed to "take us away from funding individual priorities"

The first meeting of the 11-member Board of Directors is scheduled for March. Along with MacIsaac and vice-chair Peter Smith, the Board will include Hamilton Mayor Fred Eisenberger, Regional Chairs Gary Carr (Halton), Bill Fisch (York) and Roger Anderson (Durham), Toronto representatives Mayor David Miller, Adam Giambrone, Brian Ashton and Paul Bedford, and Mississauga Mayor Hazel McCallion (confirmed after the AOLE dinner).

In the next month or so, the GTTA plans to establish a series of Advisory Committees. MacIsaac called on AOLE members to get involved.

The GTTA is also going to have responsibility for the region-wide fare card system being developed by the Ministry, and eventually take over responsibility for GO Transit. "I think it pretty clearly makes the most sense for us to be doing it."

Rowena Moyes is a Toronto-based writer and communications consultant, and editor of this Journal.

New rental law changes cost impacts

by Heather Waese

Ontario's new Residential Tenancies Act (RTA), which came into effect Jan. 31, makes some big changes to how landlords can pass through costs.

Most of the attention has focussed on the new limits to rent increases for large capital expenditures – the RTA caps them at three per cent a year for a maximum of three years. But other changes also have a big impact on rent increases based on capital costs and extraordinary operating cost increases – and should not be overlooked.

Capital Cost Expenditures

Chart 1 below details the differences in the allowance between how the old Tenant Protection Act (TPA) and the new RTA treat capital expenditures in an Above Guideline Increase application (AGI).

The examples are based on a property with 200 units, 100 of which are included in the AGI application. Monthly rental revenues

are \$200,000 for the complex as a whole, but the revenue for the units included in the application is \$85,000. The chart examines two different capital projects: a boiler replacement costing \$175,000, and exterior painting costing \$80,000.

Lower rent increase

Under the new Act, the boiler replacement can result in a justified rent increase of 0.78 per cent – approximately three-quarters of the 1.02 per cent increase it would have received under the TPA. The 0.24 percentage point difference results from three changes to the calculation:

- Firstly, the interest factor allowed under the old Act was based on the five-year CMHC first mortgage rate (on the last Wednesday of the month before the month in which the application is made), plus one per cent. Under the new Act, there is no additional one per cent.
- Second, the five per cent management and administrative allowance permitted under the TPA is no longer available.

- Third, the methodology for allocating costs has changed from a percentage-of-units basis under the old Act, to a percentage-of-revenue basis under the RTA.

10-year amortization

The second section of the chart shows the added impact of the RTA's new minimum amortization period (useful life) on the treatment of the exterior painting costs.

The five-year amortization previously considered under the old Act for exterior painting is effectively doubled. Under the new Act, the shortest amortization period that will be considered is 10 years, even if the schedule included in Ontario Regulation 517/06 states a shorter period.

Together, all of the above changes produce a justified rent increase of 0.46 per cent for the \$80,000 capital project. That is less than half of the 1.00 per cent that would have been allowed under the TPA.

Extraordinary Operating Costs

The thresholds for determining whether an operating cost increase is extraordinary also change significantly between the two Acts. (See graph on page 5.)

Under the TPA, the threshold was based on a 50 per cent variance of the three-year moving average for the percentages compiled in the building operating cost index for heat, hydro, water and taxes. That portion of the increase that exceeded the annually established thresholds would be considered in the rent increase.

Guideline + 50%

Under the new Act, the threshold is the annual guideline (the Cost Price Index for Ontario) plus 50 per cent of the annual guideline. For 2007, that adds up to 3.9 per cent.

If the increase in any of heat, hydro, water and/or taxes is greater than this threshold, it is considered extraordinary. The total justified rent increase takes into consideration the net overall change in the three utilities. However, no increase will be awarded under the RTA if the net overall change is less than 0.5 per cent.

Chart 2 details the methodology for calculating the justified rent increase for a typical utility scenario. It is based on the same

Chart 1

	Boiler replacement		Exterior painting	
	TPA	RTA	TPA	RTA
Total cost	\$175,000	\$175,000	\$80,000	\$80,000
Allowed interest rate factor	7.90%	6.90%	7.90%	6.90%
Management/admin allowance	\$8,750	\$0	\$4,000	\$0
Amortization (useful life)	15 years	15 years	5 years	10 years
Justified annual increase (\$)	\$20,784	\$18,645	\$20,329	\$11,049
Total # units in the complex	200	200	200	200
# units in the AGI Application	100	100	100	100
Allocation factor under the TPA	50%	n/a	50%	n/a
Total monthly rental revenue	\$200,000	\$200,000	\$200,000	\$200,000
Monthly revenue AGI units	\$85,000	\$85,000	\$85,000	\$85,000
Allocation factor under the RTA	n/a	42.5%	n/a	42.5%
Justified rent increase for AGI units (\$)	\$10,392	\$7,924	\$10,165	\$4,696
Justified rent increase for AGI units (%)	1.02%	0.78%	1.00%	0.46%

Chart 2

**Rent increase based on utility costs
Residential Tenancies Act**

Item	Calculation	Heat	Hydro	Water
		14.37% actual increase	12.75% actual increase	2.94% actual increase
A Reference year actual costs		\$244,800	\$81,600	\$40,800
B Reference year costs allocated to application	$A \times 42.5\%$	\$104,040	\$34,680	\$17,340
C Expected base year costs related to application	$B + 3.9\%$ <i>RTA threshold</i>	\$108,098	\$36,033	\$18,016
D Base year actual costs	$A + \text{actual increase}$	\$280,000	\$92,000	\$42,000
E Base year costs allocated to application	$D \times 42.5\%$	\$119,000	\$39,100	\$17,850
F Actual change in costs related to application	$E - B$	\$14,960	\$4,420	\$510
G Extraordinary change in costs related to application	$E - C$	\$10,902	\$3,067	-\$166
H Extraordinary change as a % of annualized rents relating to the application*	$G \div \$1,020,000 \times 100$	1.07%	0.30%	-0.02%
I Total EOC rent increase (\$)	$G \text{ hydro} + G \text{ heat} + G \text{ water}$	\$13,803		
J Total EOC rent increase (%)	$I \div \\$1,020,000 \times 100$	1.35%		

*100 units x \$850/mo x 12 months

Hamilton brownfields spat

By pointing out that new industry is unlikely to locate in the city's brownfields, an employment lands study spawned a tempest in Hamilton this February. Refusing to "give up on brownfields," some Councillors called for extensive review of the Hemson Consulting Ltd. recommendations.

"Council needs to gulp, blink and back-peddle," Hamilton Spectator columnist Andrew Dreschel responded Feb. 23. The study was spelling out market realities some people didn't want to hear, he wrote. Given the extra growth in Hamilton called for by provincial policy, the Hemson study "concluded (the City) needed all its existing business parks plus 1,000 new hectares to handle job growth over the next 25 years."

To compete, the new employment lands should offer a variety of sites, buffering, and good road transportation. Best bet is a new 850 ha employment area at the Hamilton International Airport-Highway 403-6 interchange, the study says, and a 150 ha extension to the North Glanbrook business park.

While new industries are not generally attracted to brownfields, it explains, some areas are attractive for residential/commercial projects. "The redevelopment economics of brownfields favours residential and commercial development over continued industrial use in virtually every urban circumstance."

Much higher prices for TO

Growth management policies in the Greater Golden Horseshoe may have Toronto following the experience of Vancouver – with prices for low density housing skyrocketing, says a new report from AltusClayton. The firm (Clayton Research joined the Altus Group early this year) compared growth policies in Toronto, Vancouver, Montreal and Calgary.

New stringent controls on greenfield development in Toronto threaten "a widening wealth gap between the 'haves' (households owning a low density housing unit) and the 'have nots' (renters, new immigrants, young people living at home)," it says. The increase is "being delayed while the existing low density greenfield land supply is being depleted."

While policy makers are forcing intensification because of environmental concerns, the hidden costs of housing affordability, lack of choice, and potential leapfrog-sprawl are being ignored, Frank Clayton warns.

residential complex as in Chart 1. The first effective date of the rent increase in the application would be June 1, 2007.

For the year 2007, the threshold considered under the RTA is significantly less than the utility thresholds under the old Act.

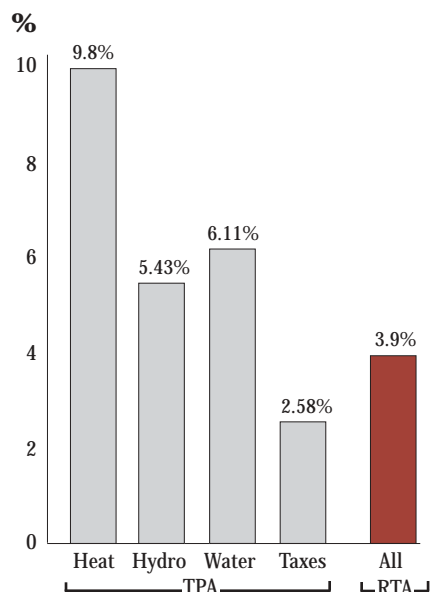
However, there is a new requirement that landlords notify tenants (all those who were party to the initial application) of the costs incurred for each of the utilities — for a period of five years following the first effective date of the application.

If costs reduce by more than 0.5 per cent, any tenant who was party to the initial application may apply to the Board for a reduction in their rent.

Heather Waese is president of S.P.A.R. Property Consultants Ltd., a Toronto-based firm specializing in Landlord Tenant Board and rental tenancies issues, property tax assessment, and acquisition and divestment due diligence.

TPA & RTA Thresholds

Extraordinary increases in operating costs



Is Toronto getting its Act together?

by George H. Rust-D'Eye LLB, LLM

Last year, the Province proclaimed the City of Toronto to be the (later "an") "economic engine of Ontario", and gave it a huge new statute, all of its own.

The City of Toronto Act, 2006 (all 461 sections of it) has among its objectives, in the words of Premier McGuinty, that "Toronto will now have the autonomy to be as dynamic, competitive and successful as the people who have chosen to make their homes and their livings here".

Proclaimed January 1

Ultimately, the Act, which came into force on Jan. 1, 2007 (as did parallel amendments to the Municipal Act implemented by Bill 130), could have major ramifications, potentially affecting every aspect and sector of Toronto's economy, and that of Ontario generally. The problem is uncertainty:

- (1) uncertainty as to what will be the effects of the Act; and
- (2) that the Act will cause uncertainty in terms of market confidence and investor enthusiasm.

The Act enlarges the general powers of the City to provide goods and services, act like a natural person in its business operations, and pass by-laws covering, among other things, the "economic, social and environmental well-being of the City", and the "health, safety and well-being of persons".

These powers do not, in themselves, necessarily support

economic prosperity or investor confidence, although both could result from carefully-implemented City strategies and programs and the creative use of its powers to support business initiatives and sustain a healthy market.

Most of the changes are incremental and enabling: the broadening of legislative and regulatory jurisdiction; widespread authority to delegate legislative and approval powers; the power of the City to create its own structure, including the "strong Mayor system"; powers to incorporate business corporations and support community improvement schemes; wide opportunities to provide goods and services; and the giving to the City of virtually full powers, capacity, rights and privileges of a natural person.

Council powers extended

In all of these areas, greater powers have been extended to the City Council, with flexibility to decide how they are to be exercised and made more effective. Their success will depend on what the City does with them.

In terms of impact on citizens and property owners, the new Act could produce significant advantages, through: lowering the cost of City operations; increased efficiency; less red tape; devolution of powers through delegation; and direct responsiveness by City government to the needs of its citizens.

At the same time, the impact of decentralization could create more roadblocks to private enterprise, more bureaucracy, and uncertainty as to the rights of citizens in the face of political decision-making at City Hall.

In relation to land use planning, the new City of Toronto Act would allow the City to:

- regulate minimum area of land and the minimum and maximum density and height of proposed development;
- require those seeking development approval to file drawings of exterior design, scale, appearance and design features,

and particulars of sustainable design elements;

- establish a development permit system;
- impose conditions on zoning by-law amendments; and
- establish its own appeal body to hear appeals from the committee of adjustment involving minor variances and consents.

Significantly greater control

These changes may mean, in conjunction with recent Planning Act amendments, that the City will exercise significantly greater control over development and the cost of building in the City. This could produce better development and a more efficient and better-run City, but this remains to be seen.

Other principal changes to the City's legislation involve increased powers and flexibility in the establishment of fees and charges, and limited powers, not shared with other municipalities, to impose direct taxation.

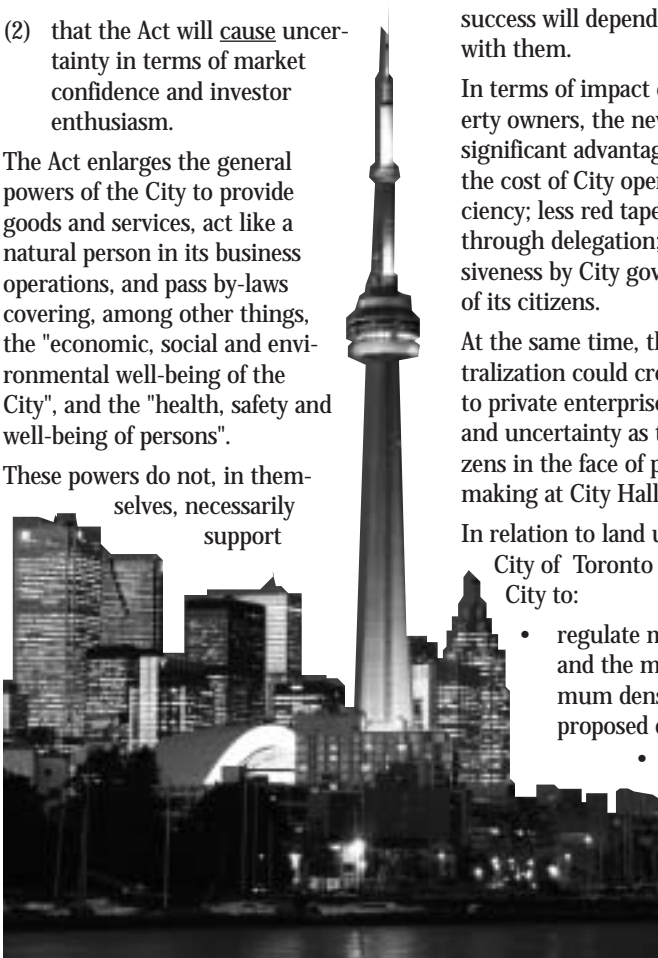
Despite the Province's willingness to give the City more room to manoeuvre, when it comes to fees, charges and other taxes, there remain arcane and complex constitutional limits and practical impediments to legislative jurisdiction, which means that the City will have to be careful about what it can do and how it goes about doing it.

Provincial role

The Province has retained significant control over the implementation of the new Act, either through requiring pre-approval of certain actions by the City through regulations, or maintaining the power to prevent and roll back municipal actions by regulation if the Province feels it necessary to do so.

For all the innovations referred to above, it is impossible to predict with certainty what impact these changes may produce. For the time being, all we know is that we know very little.

George H. Rust-D'Eye is a partner with WeirFoulds LLP. A specialist in municipal and administrative law, he is co-author of The Ontario Municipal Act: A User's Manual - 2006 (Thomson, Carswell).



Welcome New Members

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Hon. Hazel McCallion

*Membership Chair Konrad Koenig
welcomes Mississauga Mayor
Hazel McCallion as an Honorary
member of the AOLE.*

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Seneca winners to get membership

AOLE funds a special bursary prize for top students in the Seneca College Real Property Administration program. At its last meeting, Council voted to give a free, one-year Student membership to all recipients of the Association's bursary. The Real Property Administration (Assessment and Appraisal) program takes two years to complete, although an accelerated program is available for those with qualifying credits. The AOLE prize is usually presented in April.

Students can join

Students enrolled in a relevant educational program may apply to become Associate Members (Student). Annual cost is \$67.

Let's promote AOLE

We all benefit when new people join the AOLE. Members are encouraged to invite qualified professionals and students to attend one of our events, and apply for full or associate membership.

The Legislative Beat *continued from page 8*

Rouge Park – Greenbelt Expansion
On Feb. 13, Government Services Minister Gerry Phillips announced that an additional 5,500 acres would be dedicated to Rouge Park.

The Markham announcement emphasized the 15 per cent increase in land area and the improvement to linkages between parts of the park north and south of Steeles Avenue.

Provincial Election

The fixed date for this year's election had to be moved from the 4th to the 10th of October for religious reasons.

Expect the opposition to add this to its list of broken Liberal promises. In addition, the number of Ontario ridings to

be contested will increase from 103 to 107.

A recent Globe and Mail headline exclaimed that "McGuinty takes on green hue as election nears". The story appeared after the Liberals held a policy retreat, a full eight months prior to the election. Environmental organizations are likely to take exception to this 'green hue' characterization, because of the government's broken promise to shut down coal-fired plants.

Waste Diversion Initiatives

In a matter of great interest to a subset of Land Economists, the province added a 10 or 20 cent deposit on all wine and spirit containers in early February.

This deposit "will divert recycling waste from landfill sites and free up space in

Blue Boxes, giving municipalities the opportunity to expand recycling programs," the press release states.

No doubt our membership will assist with consumption in an effort to achieve higher diversion rates.



Andy Manahan is Executive Director of the Residential and Civil Construction Alliance of Ontario.

By-elections

Each of the three main parties won a seat in the Feb. 8 by-elections in Burlington (PC), Markham (Lib) and York South-Weston (NDP). For the first time, a quarter of Ontario MPPs are women. In the 2003 general election, the figure stood at 21 per cent.

The NDP used to advantage the province's 25 per cent wage hike for MPPs, with election ads contrasting that hike with NDP calls for the minimum wage to increase to \$10 per hour from \$6.85. The province implemented an increase to \$8.00 on Feb. 1.

A new Cabinet posting has been created for Michael Chan as Revenue Minister. He will coordinate with Ottawa on harmonizing Ontario's corporate tax collection system – a duty previously managed by Finance Minister Greg Sorbara. There are now 26 Cabinet Ministers, including the Premier.

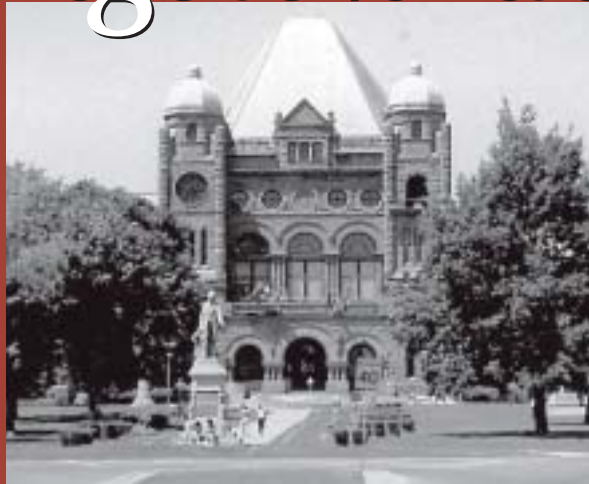
OMB Flare Up

A recent Ontario Municipal Board decision in the City of Toronto has renewed calls by certain Queen West neighbourhood advocates to abolish the OMB.

Despite that fact that the province has decided to maintain the OMB and reformed the OMB process (see Glenn Miller's review in Vol. 36, No. 2), one Toronto councillor called for the Board's abolishment except "in extreme cases of abuse of power." A newspaper columnist went so far as to say that the Premier "should immediately quash the ruling and impose council's compromise." Now there is talk by the City of using its new powers under the City of Toronto Act to establish a new arms-length appeal structure with non-elected representatives.

In a Feb. 21 letter, Municipal Affairs and Housing Minister John Gerretsen rejected Mayor David Miller's request for the province to intervene on the matter. Gerretsen noted that "the city could have enacted an interim control bylaw to provide additional time to refine its vision for the area, or to complete studies required under the secondary plan."

The Legislative Beat



by Andy Manahan PLE

New Municipal Act

Bill 130, the Municipal Statute Amendment Act, came into force on January 1, 2007. The Association of Municipalities of Ontario states that this legislation "moves the province toward a more mature relationship by removing it from micro-managing municipal governments and instead provides broader, accountable authority for municipal governments to operate."

One of the regulations dealing with the creation of Municipal Services Corporations (Reg. 599/06) resulted in some concern. Industry questioned the potential for municipal corporations to buy private sector companies or form municipal corporations to compete in the provision of construction, operations and maintenance services. These concerns appear to have been allayed.

EA Process Improvements

Last June, Environment Minister Laurel Broten announced a project to streamline the Environment Assessment process. Transit, energy and waste were identified as priorities. "With respect to transit, we need a shorter process for these environmentally beneficial projects that will help get people out of their cars and onto public transit," she said. "This is good news for our health and the health of our environment." GTTA Chair Rob MacIsaac intends to press the

minister on these reforms so that when the regional transportation plan is developed, it will not languish due to inordinate process delays. (See article on page 3.)

Technical Guidelines for Built Boundaries

Last fall, the Ministry of Public Infrastructure Renewal released a "Technical Paper on a Proposed Methodology for Developing a Built Boundary for the Greater Golden Horseshoe" in an effort to assist in implementation of the growth plan. A grid cell mapping process has been developed to help delineate settlement areas. The Ontario Growth Secretariat is reviewing submissions that were received up to the end of January.

Fair Access to Regulated Professions

Citizenship and Immigration Minister Mike Colle has made a number of announcements related to The Fair Access to Regulated Professions Act, 2006. Passed last December, it requires Ontario's 34 regulated professions to assess the credentials of foreign trained professionals more quickly, and expedite integration of newcomers through a fair, clear and open process. Internationally trained individuals will be able to use web portals and one-stop resource centres to help them navigate through the complex systems that exist to enter regulated professions, and promote internships and mentoring programs.

Brownfields Update

In February, a broad-based coalition of municipal government, construction and environmental industry groups sent a letter to the Premier supporting the government's proposal for potential Legislative Brownfield Reform. Key components include: strengthening regulatory and civil liability protections, streamlining the municipal redevelopment process and improving the Record of Site Condition framework. The intent and direction of proposed changes should help to close the gap on environmental liability and this, combined with new financial tools such as Tax Increment Financing, could dramatically improve the ability to redevelop brownfield sites.

See Legislative Beat page 7