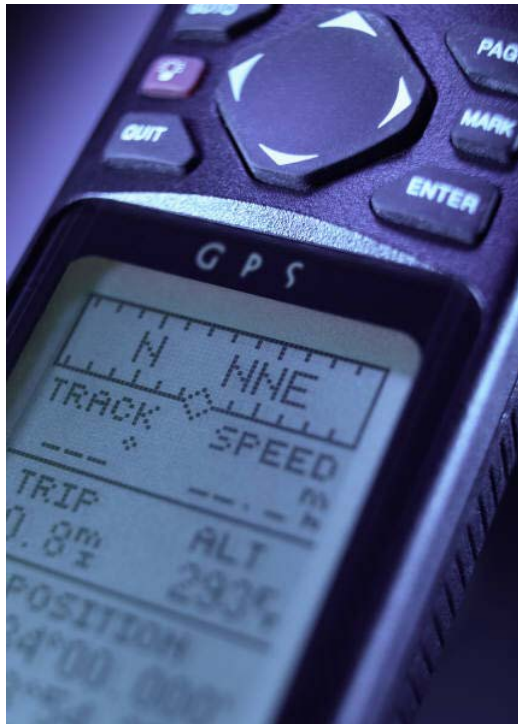


# Ontario East Municipal Conference



## *GPS'ing the OMB*

Irvin M. Shachter, Senior Counsel  
Ministry of the Attorney General  
Legal Services Branch - MAH  
September 11, 2013

*The views expressed in this paper are those of the author and do not necessarily represent the views or opinions of the Ministry of the Attorney General or the Legal Services Branch of the Ministry of Municipal Affairs and Housing.*

# Where Has the Board Been?

## Near North

- *Amir-Hessam Limited v. Richmond Hill* (OMB Case PL110189, Nov. 5, 2012)
  - Municipality required to justify alternative parkland dedication rate?

# Where Has the Board Been?

## NorthEast

- *Norman v. North Bay* (OMB Case PL111272, Feb. 14, 2013)
  - Municipality using out of date NEF/NEP data.
- *MAH v. Greater Sudbury* (OMB Case PL120817, Feb. 4, 2013)
  - Municipality adopting OPA to permit creation of two undersized lots in prime agricultural area.

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# Where Has the Board Been?

## NorthWest

- *Hobo Entrepreneurs Inc. v. Sunnidale Estates Ltd.* (2013 ONSC 715, Jan. 30, 2013)
  - The role of the OMB in respect to the ambit of municipal decisions.

# Where Has the Board Been?

## East

- *Greater Ottawa Home Builders' Association v. Ottawa* (OMB Case PL120666, Mar. 8, 2013)
  - The extent to which a municipality can regulate “design” through zoning (i.e. - the Ugly Porch By-law)

# Where Has the Board Been?

## Coming/Going?

- *Battiston v. Brampton & MAH* (OMB Case PL121100, June 29, 2013)
  - The ability of the Minister to obtain party status in an appeal.
- *Nyon Oil Co. v. Port Colborne* (OMB Case PL090828, July 11, 2013)
  - The ability of the Minister to obtain party status in an appeal.

# Where Has the Board Been?

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  - The ability of the Minister to obtain party status in an appeal.



# Where is the Board Going?

## Section 43 Requests for Review of OMB Decisions

- *Stamm v. Port Hope* (OMB Case PL070770, Feb. 19, 2013)
- *Activa v. Waterloo* (OMB Case PL110080, Mar. 28, 2013)
- *Bridgeburg Holdings v. MAH* (OMB Case PL110913, May 7, 2013; June 18, 2013)
- What does this mean?
  - Winning at the Board may not be the end
  - Odds of success of a s. 43 request are not good
  - Difficult to find/discern factors Board considers

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# Where is the Board Going?

- Practice Direction – Growth Plan Hearings
- Issued August 8, 2013 and effective September 1, 2013
- Generally applies to Board orders issued after Sept. 1, 2013
  - Board got out of the Practice Direction business in favour of more comprehensive rules
  - Board has authority to specifically require all the direction now without having to specifically issue a PD
  - Some of directions already being done in Growth Plan cases on an ad hoc basis
- Best practices document in many ways
- Summary of changes:

# Trends

- Fewer members
- Longer, more complicated hearings
- Increased emphasis on mediation
- Getting it right the first time

# Tips/Directions

- Don't forget your briefs ...

... your mediation briefs that is.

- Requirement for briefs
- Format



# Tips/Directions

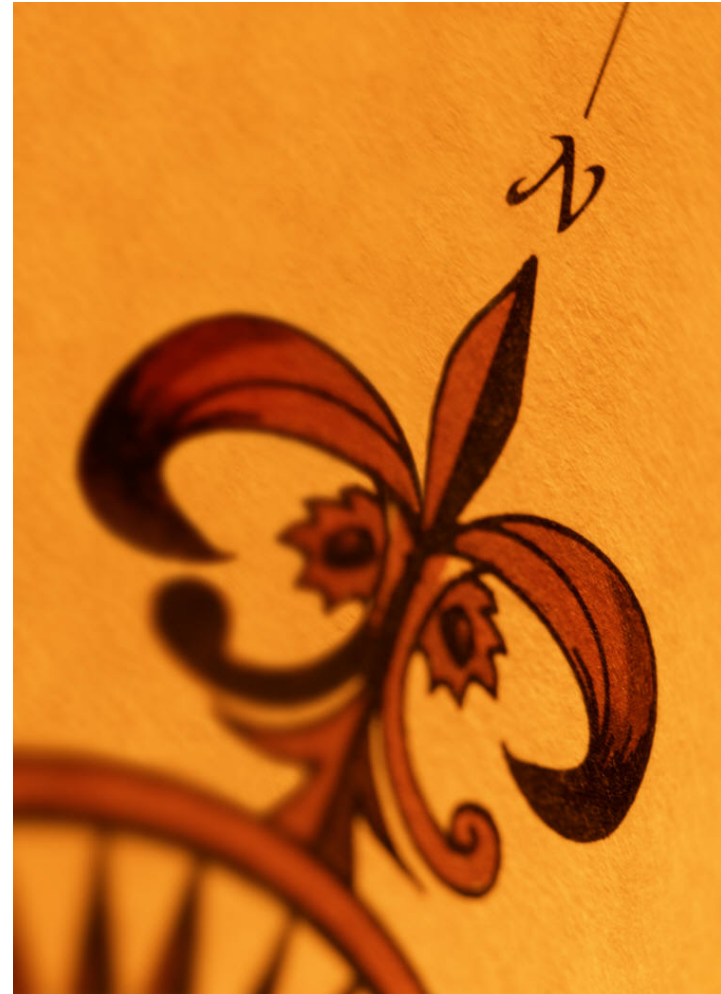
- Heed section 2.1 of the *Planning Act*

- Council material
- Decision in writing
- Make a decision
- Clear decision
- Reasons



# Tips/Directions

- Settlements – getting your act together:
  - format of hearing
  - evidence – *Whitby by the Lake Inc. v. Whitby* (OMB Case PL121263, July 17, 2013)
  - order? what order?





# And Now for Something Completely Different ...

- *Matwijow v. Pelham (Town)*, [2013] O.J. No. 19, April 30, 2013
  - Dividing land without proceeding through a consent process under the *Planning Act*

