

COUNCILLORS COOL TO CUTTING TAX

A REVENUE PROBLEM

By Mark Ostler

As Mayor **Rob Ford** muses about his plans to start phasing out the land transfer tax next year and after the **Toronto Real Estate Board** raised the issue during budget deliberations earlier this month, at least two strong Ford supporters aren't on board.

"I made it very clear right from the start, prior to the election and just after the election, that I would be opposed to eliminating the land transfer tax. I haven't changed my position," Councillor **Frank Di Giorgio** told *NRU* this week.

Di Giorgio and fellow councillor **Norm Kelly** both voted to create the land transfer and vehicle registration taxes four years ago. Both also voted one year ago to abolish the vehicle registration tax and have voted with Ford on many of the high-profile issues that have come before council this term. Late last week Ford mused in an interview with CP24 about possibly starting to phase out the land transfer tax, suggesting it could be reduced by 25 per cent in 2012.

Di Giorgio said the vehicle registration tax is a "stagnant" tax and property taxes aren't responsive to the economy because increases are implemented at the will of politicians, not based on inflation or increased property values.

"The land transfer tax, because it's expressed as a percentage of the value on sale, if the value of properties goes up, the tax that's applicable at sale...grows with the value of the property," said Di Giorgio,

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14TH ANNUAL TORONTO RANKING

TOP-TEN DEVELOPMENT LAW FIRMS

This year's edition of *NRU*'s annual law review includes some high profile downtown high-rise settlements as well as a number of residential infill projects that were appealed to the board.

CentreCourt Ventures (Adelaide-Peter) Inc. had a huge win at the board, providing a green light for its 40-storey mixed-use building proposed at Adelaide Street West and Peter Street. The board allowed **GCD Trustee Limited's** appeal of four 24-storey apartments at Gerrard Street East and Clonmore Drive. **Diamondcorp** also had a big win at the board, which allowed its massive 45-storey condominium that incorporates a number of heritage properties on Yonge Street, St. Nicholas Street and St. Joseph Street to proceed.

The board approved settlements for **Portwell Developments Inc.'s** 11-storey residential condominium at 508-516 Wellington Street West and an 18-storey residential apartment building and 12 townhouses at 1603 Eglinton Avenue West.

On the non-residential side, the city's appeal to the Divisional Court regarding **Home Depot Inc.'s** large-scale retail development at York Mills and Lesmill was dismissed, upholding an OMB decision that determined the proposed development did not constitute a

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Happy Holidays!
NRU will not be publishing the week of December 26th

UPCOMING DATES

JANUARY 3
[Cancelled] Executive Committee, 9:30 a.m.

JANUARY 4
Public Works & Infrastructure Committee, 9:30 a.m.

Bid Committee, 2:00 p.m., Committee Room 4.

JANUARY 5
Planning & Growth Management Committee, 9:30 a.m.

JANUARY 9
Budget Committee, 9:30 a.m.

JANUARY 10
Community Councils, 9:30 a.m.

JANUARY 11
Community Development & Recreation Committee, 9:30 a.m.

Waterfront Toronto Design Review Panel, 9:00 a.m., 20 Bay Street, Suite 1310.

JANUARY 12
Executive Committee, 2012 Capital and Operating budgets, final review, 9:30 a.m.

Daniels forum, Zoning Health: Architecture's Curative Nature, 93 Charles Street West, 6:30 -8:00 p.m.

JANUARY 13
Civic Appointments Committee, 10:00 a.m. Committee Room 3.

JANUARY 16
Civic Appointments Committee, 10:00 a.m., Committee Room 2.

Toronto Preservation Board, 2 p.m., Committee Room 3.

JANUARY 17-19
City Council, 9:30 a.m.



COURT SAYS NO BY-ELECTIONS

AUGIMERI STAYS

Councillor **Maria Augimeri** will stick out the rest of this term. On Monday Ontario Superior Court justices **Michael Dambrot**, **John Jennings** and **John Sproat** released a decision in favour of the councillor's appeal against an earlier court decision ruling that her October 2010 election was invalid.

The decision comes after the city initially opted not to appeal the court decision. A by-election date had at one point been set, but the earlier decision also ruled invalid the **Toronto District School Board** election for Ward 4. The winner of that election, **Stephanie Payne**, appealed and ultimately, the city followed suit.

The latest decision found that both the Ward 9 councillor election and the Ward 4 TDSB trustee election results are valid. Augimeri's opponent in the election, insurance company owner **Gus Cusimano**, challenged the results of the councillor's 89-vote win and Mayor **Rob Ford** was vocal in his support for a by-election, as Cusimano aligned himself with Ford during the campaign.

In both cases, irregularities in a number of Voters List Change Request Forms (VLCRFs) were alleged by the losing candidates. Cusimano and Payne's election opponent **Mike Sullivan** both argued the irregularities affected the outcome of their respective elections. Specifically, hundreds of forms lacked

a signature from an election official and Cusimano and Sullivan argued this meant the voters should not have been allowed to cast a ballot. With Cusimano's 89-vote loss and the margin of Sullivan's defeat being only 56 votes, the issue was significant.

Monday's decision found that though the forms lacked the signature, almost all of those voters were eligible to vote.

"In the end, however, in my opinion, the most significant part of this evidence is the declaration made by all but at most 23 of these voters, and probably fewer, that they were qualified to be electors, taken together with the fact that these voters were actually added to the voters' list," Dambrot wrote in the decision, noting that the original presiding judge, **Alexandra Hoy**, had not consider some of the evidence.

"If the application judge had examined all of this evidence, particularly the voter declarations, which she did not apparently examine...she undoubtedly would have been assured that the demonstrated irregularities did not affect the results of the two elections," Monday's decision asserts. "Having found that the application judge erred in law in respect of this issue, we are entitled to substitute our conclusion for the one she reached."

Raised during the recent court proceedings was the

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Annual subscription rate is \$349 +HST (ON).

Complimentary trial subscriptions are available.

Advertising rates available upon request.

NRU City of Toronto Edition is not to be redistributed without the written consent of the publisher.

NRU City of Toronto Edition is published 50 times a year by email by NRU Publishing Inc.

NRU Publishing Inc.
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ISSN 1918-753X



CITY OF TORONTO • GREATER TORONTO • VANCOUVER

A REVENUE PROBLEM

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who sits on the budget committee. “Not only is it a source of revenue, it’s an increasing source of revenue.”

Responding to the Toronto Real Estate Board’s proposal to abolish the land transfer tax and replace the revenue by bringing residential property taxes in line with 905 municipalities, Di Giorgio suggested it would take not only a large one-time hike in taxes, but also automatic annual tax hikes built into the budget process to make up for the increased revenue the land transfer tax would bring in due to rising property values.

“I could always consider looking at some alternative, but no other source would be tied to the economy the way this one is,” Di Giorgio said. “Theoretically, market value taxation of property should be pegged to increasing market value but it’s not. The property assessments are essentially frozen.”

Councillor Kelly would rather see a focus placed on broadening the taxation powers of the city, to match those of some major American centres like Chicago, before council considers doing away with the land transfer tax, particularly because it would mean a drop in revenue of approximately \$300-million a year.

“Where the heck would you find \$300-million somewhere else? It’s not lying on the ground,” Kelly told *NRU*. “The removal of that tax would have to be approached very cautiously and a lot of things would have to fall into place before you would do that.”

The councillor pointed out that his about-face on the vehicle registration tax was based on the fact that during the last campaign it appeared to be reviled by a vast majority of the residents he spoke to. On the other hand, Kelly noted

that the land transfer tax brings in far more money and its abolition would affect far more services upon which residents rely.

He also pointed out that despite real estate industry speculation that the tax would amount to a shock to Toronto’s real estate market, “it hasn’t had the calamitous impact that the industry had anticipated.”

Where the heck would you find \$300-million somewhere else? It’s not lying on the ground. The removal of that tax would have to be approached very cautiously and a lot of things would have to fall into place before you would do that.

• Norm Kelly

Rather than spend his political energy on trying to do away with the tax, Kelly would like to see the mayor push for changes to the *City of Toronto Act* to allow the city to introduce its own sales tax or other taxes.

“In doing so you’re going to capture people who don’t pay for the city services, but use them: people who live outside the city but come in on a daily basis, tourists,” said Kelly, who is chair of the parks and environment committee and a member of Ford’s executive committee. “Get out of talking about a particular tax and start describing a system that will work for this city in the 21st Century.”

“I think if you’re going to expend that much energy in restructuring the system to accommodate that loss of money, you might as well put your energy and your talents to trying to reform the system.” **nrU**

AUGIMERI STAYS

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fact that Cusimano does not live in Ward 9, but voted there during the election. Of note, election challenges can only be brought by residents of the ward in which the election took place, but the court decided to continue with the consideration of the decision because the initial challenge had already been heard and the appeal centred on that decision.

A statement from Augimeri on Monday seemed to subtly refer to this issue, concluding: “I look forward to continuing to protect our community from outside agendas and major service cuts that will hurt our community’s most vulnerable.” **nrU**

TOP-TEN LAW FIRMS

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conversion of employment lands to non-employment uses.

In our 14th annual ranking of Toronto's most prominent planning and development law firms, *NRU* looked back at OMB decisions from August 2010 to July 2011. The first four spots remain unchanged in this year's ranking, while some firms slipped out of the top twenty altogether. **Stikeman Elliott** and **Andrew Paton, Q.C.** firms that were unranked in last year's review made it into the top ten. Other firms unranked in last year's review are included in this year's top twenty, including **Bratty & Partners**, **Thomson Rogers**, **Paliare Roland**, **Fasken Martineau** and **Papazian Heisey Myers**.

Look for the GTA's top-10 development law firms in last Wednesday's edition of *NRU*.

1 [1] Aird & Berlis



Eileen Costello, Robert Doumani, Patricia Foran, Tom Halinski, Patrick Harrington, Jody Johnson, Kim Kovar, Sidonia Loiacono, Leo Longo, John Mascarin, Josephine Matera, Jane Pepino, Andrea Skinner, Christopher Williams, Steve Zakem

Reasons for ranking: Aird & Berlis kept its number one spot in this year's ranking working on a large volume of cases, achieving a number of wins and settlements for its clients. The firm had a big win at Divisional Court, representing the Home Depot regarding a city appeal of an earlier OMB decision that approved the development of a large-format retail store at York Mills Road and Lesmill Road.

OMB and court matters or hearings: Representing Portwell Developments Inc. regarding its appeal to permit development of an 11-storey residential condominium at 508-516 Wellington Street West (Kovar)(settlement); representing **Kwok Yuen** and **Betty Ho** regarding their appeals and those by the **Canadian Film Centre** to permit expansion of existing education facilities at the film centre's property at 2489 Bayview Avenue (Pepino)(settlement); representing **Samantha Rush** and **Zoran Vukasinovic** regarding their appeal of a committee of adjustment decision to approve minor variances to permit construction of an addition to

a property at 5 Dacre Crescent (Costello)(x); representing Home Depot Holdings Inc. regarding an appeal by the **City of Toronto** regarding an OMB decision to permit development of a large-scale retail centre at 840-842 York Mills Road and 16 Lesmill Road (Zakem, Harrington)(√); representing **Petro J. Developments Inc.** regarding appeals by **1772014 Ontario Inc.** to permit development of a 36-storey condominium tower at 36 Park Lawn Road (Costello); representing the **Kew Beach Neighbourhood Association** regarding appeals by **Worsely Beach Limited** to permit development of a four-storey condominium at 66-76 Kippendavie Avenue (Pepino); representing **Margaret Booth** regarding her appeal of a committee of adjustment decision to allow replacement of an existing house at 192 Grenadier Road (Halinski) (√); representing Toronto regarding appeals by **1800381 Ontario Limited** and **2111594 Ontario Limited** to permit development of six lots with six townhouses at 11-17 Roslin Avenue (Loiacono)(x); representing Toronto regarding appeals by **Glena** and **Paul Madger Furs** regarding the city's approval of a community improvement plan to support redevelopment of six properties at 611-625 Queen Street West (Loiacono, Longo,)(√); representing **Jack Eisenberger** regarding his appeal to permit below-grade garages for detached houses in North York (Foran); representing **Littlebrook Investments Limited** regarding modifications to minor variances previously approved by the board to permit replacement of a detached dwelling at 81 Dawlish Avenue (Pepino)(√); representing **Urbancorp Communities Inc.** regarding its appeal to permit development of a seven-storey 61-unit apartment building at 801 Sheppard Avenue West (Kovar)(√); representing **Michael Heti** regarding an appeal by **Howard Hacker** and **Sylvia Lisa Feld** against a committee of adjustment decision to approve construction of a new house at 415 Glengrove Avenue (Doumani)(settlement); representing Toronto regarding appeals by **Architectural Design Ltd.** to allow redevelopment of the existing house at 16 Vesta Drive (Loiacono) (settlement); representing Toronto regarding appeals by **Nicholas Babatsikos** to legalize an apartment constructed at the rear of an existing 3-storey mixed-use building at 521 Danforth Avenue (Loiacono)(x).

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TOP-TEN LAW FIRMS

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2 [2] Davies Howe Partners



John Alati, Isaiah Banach, Kim Beckman, Jeff Davies, Mark Flowers, Robert Howe, Raj Kehar, Meaghan McDermid, Michael Melling, Aaron Platt, Susan Rosenthal, Daniel Steinberg, Amber Stewart, Katarzyna Sliwa

Reasons for ranking: Davies Howe's work on a significant number of residential cases in the city helped the firm keep its number two spot in this year's ranking. Representing GCD Trustee Limited for its appeal of four 24-storey apartments on the former Birchcliff quarry lands in the east end was a significant win for the firm.

OMB and court matters or hearings: Representing GCD Trustee Limited regarding its appeal to permit development of four 24-storey apartments at Gerrard Street East and Clonmore Drive (Alati)(√); representing **Breck McFarlane** and **Adam Baguley** regarding their appeals against new zoning standards for Ossington Avenue between Queen Street West and Dundas Street West (Alati); representing **Sonterlan Corporation** regarding an appeal by **Lorraine Munro** regarding the city's approval of its application to permit development of a new 4-storey residential building at 169-175 Jones Avenue (Flowers)(√); representing **Cumberland Development Limited Partnership** and **OMERS Realty Management Corporation** regarding appeals by **20 Cumberland Street Ltd.**, **Morguard Investments Limited**, **2008221 Ontario Inc.**, **Pensionfund Realty Limited** and **60 Bloor Equities Inc.** of the city's decision to permit development of a 36-storey condominium at 2 Bloor Street West (Davies, Platt); representing **Dino Gliosca** regarding an appeal by Margaret Booth against a committee of adjustment decision to allow replacement of an existing house at 192 Grenadier Road (Stewart)(x); representing **Jasamax Holdings Ltd.** regarding its appeal to permit development of a new single-detached house at 2 True Davidson Drive (Alati); representing **Kingston Road Development Corporation** regarding its appeal to permit development of a six-storey apartment building at 580, 590 and 592 Kingston Road (Stewart); representing **Dorsay Development Corporation** regarding its appeal to permit

development of several residential towers with 914-units and 3,000-square metres of retail and commercial space at 2205 Sheppard Avenue East. (Flowers); representing **Architectural Design Ltd.** regarding its appeal to permit redevelopment of the existing house at 16 Vesta Drive (Platt) (settlement); representing **Urban Fabric Development (Colgate) Inc.** regarding its appeals to permit additional uses in the live-work development at 59 Colgate Avenue (Alati) (√); representing **Ramin Borzoui** regarding his appeal of a committee of adjustment decision to deny his requested variances to permit redevelopment of a single-detached dwelling at 288 Mount Pleasant Road (Alati)(√).

3 [3] McCarthy Tétrault



Daniel Artenosi, John Dawson, Cynthia MacDougall, Tara Piurko, Phil Sanford, Christopher Tanzola, Brad Teichman

Reasons for ranking: McCarthy Tétrault maintained its number three spot in this year's ranking working on settlements for a number of high profile residential cases, including mid-rise proposals at 10 and 14 Prince Arthur Avenue, 66-76 Kippendavie Avenue and also representing clients with high rise proposals for Yonge and Bathurst streets.

OMB and court matters or hearings: representing **GE Capital Real Estate** regarding its appeal to permit renovation and expansion of an existing building at 50 Charles Street West, adjacent to a property it leases (Dawson)(settlement); representing the **Toronto District School Board** regarding appeals by **Worsely Beach Limited** to permit development of a four-storey condominium at 66-76 Kippendavie Avenue (Artenosi); representing **Lauren Silverberg** regarding her appeal to permit development of a two-storey house at 210 Vesta Drive (Dawson)(√); representing **2046478 Ontario Ltd.** and **14 Prince Arthur Inc.** regarding their appeals to permit development of a nine-storey mixed-use building at 10 and 14 Prince Arthur Avenue (Artenosi, MacDougall) (settlement); representing **Dell Park Cooperative Development Housing** regarding its appeal to permit development of a 13-storey housing

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cooperative at 3180 Bathurst Street (Dawson); representing Diamondcorp regarding its request to dismiss an appeal by **Daryl Christoff** regarding the committee of adjustment's approval of minor variances to permit development of a 45-storey residential condominium at 608-618 Yonge Street, 509 St. Joseph Street and 11, 19 and 25 St. Nicholas Street (MacDougall)(√); representing **Howard Hacker** and **Sylvia Lisa Feld** regarding their appeal of a committee of adjustment decision to approve construction of a house at 415 Glengrove Avenue (Artenosi)(settlement); representing **Dell Park Co-operative Development Corporation** regarding its appeal to permit a 13-storey 349-unit non-profit housing cooperative at 1380 Bathurst Street (Dawson)(√).

4 [4] **Sherman, Brown, Dryer, Karol**

Adam Brown, Jessica Smuskowitz

Reasons for ranking: Without a loss on record and a significant case load, which includes some high profile developments such as CentreCourt Ventures (Adelaide-Peter) Inc.'s 40-storey condominium development in the city's entertainment district, Sherman Brown has maintained its number four spot in this year's ranking.

OMB and court matters or hearings: Representing **Brandi Goldman** regarding her appeals to permit the creation of three lots with one detached home on each lot at 602 Roselawn Avenue (Brown)(settlement); representing **Bernard Luttmner** and **Oskar Johansson** regarding their appeal of a committee of adjustment decision to refuse their application to sever 12 Glen Edyth Drive and to permit four three-storey detached homes on the new lots (Brown)(√); representing 1603 Eglinton Avenue West regarding its appeal to permit development of an 18-storey residential apartment building and 12 townhouses at 1603 Eglinton Avenue West (Brown)(settlement); representing **Nicholas Mary Property Inc.** regarding its appeal to add six-storeys to a previously approved 29-storey residential building at 75 St. Nicholas Street (Brown)(settlement); representing **Adenat Corporation** regarding its appeal to permit the division of 177 and 179 Caribou Road into three residential properties

with two-storey detached homes on each lot (Brown)(√); representing **Somerset Lane Estates Inc.** regarding its appeal of the city's failure to approve a draft plan of common elements condominium for its 38-unit townhouse development at 61-71 Churchill Avenue and 2-6 Basswood Road (Brown)(√); representing CentreCourt Ventures (Adelaide-Peter) Inc. regarding its appeal to permit development of a 40-storey mixed-use building at Adelaide Street West and Peter Street (Brown)(√); representing **Ian** and **Kirsten Cooke** regarding their appeal to permit the replacement of the existing house at **229 Douglas Drive** (Brown)(√); representing **Erin Hogan** regarding an appeal by **Younes** and **Sadeh Ipchilar** against a committee of adjustment decision to approve two minor variances to permit redevelopment of their home at 193 Forest Hill Road (Brown)(√).

5 [8] **Goodmans**

Ian Andres, Anne Benedetti, David Bronskill, Jennifer Drake, Roslyn Houser, Robert Howe, Allan Leibel, Catherine Lyons, Mark Noskiewicz, Nick Staubitz, and Michael Stewart

Reasons for Ranking: The firm's successful work on a number of residential cases, such as **Daniels HR Corporation's** eight-storey condominium proposal in North York and **1030 King General Partner Inc.'s** proposal for two 14-storey residential towers on King West helped Goodmans not only stay in this year's top ten but moved them three spots up the rankings.

OMB and court matters or hearings: Representing Daniels HR Corporation regarding its appeal to permit development of an eight-storey condominium at 17, 19, 21 and 25 Kenaston Gardens (Noskiewicz)(√); representing **Milena** and **Leonid Estrah** regarding an appeal by **Maria Luisa Lane** against a committee of adjustment decision to approve minor variances to permit reconstruction of their house at 79 Dawlish Avenue (Bronskill)(settlement); representing **Gordon Masters** and **Joanne Shi** regarding their appeals to approve minor variances to legalize the existing condition of the house they acquired at 12 Austin Terrace (Andres)(√); representing **Alex Khan** regarding

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his appeal to permit development of a single-storey garage on a vacant lot at 231R Leslie Street (Andres)(√); representing the **Canadian Film Centre** regarding its appeal and those by **Kwok Yuen** and **Betty Ho** to permit expansion of existing education facilities at the film centre's property at 2489 Bayview Avenue (Bronskill)(settlement); representing **Worsely Beach Limited** regarding its appeals to permit development of a four-storey condominium at 66-76 Kippendavie Avenue (Bronskill); representing **1030 King General Partner Inc.** regarding its appeal to permit development of two 14-storey condos at 1030 King Street West (Bronskill)(settlement); representing **CransMontana Enterprises Inc.** regarding appeals to permit conversion of an eight-storey nursing home at 36 Spencer Avenue into a 46-unit apartment building (Bronskill)(√).

6 [7] WeirFoulds



John Buhlman, Jeff Cowan, Jill Dougherty, Bruce Engell, Barnet Kussner, Constance Lanteigne, Ian Lord, Michael McQuaid, Kim Mullin, George Rust-D'Eye, Tiffany Tsun, Christopher Tzekas, Raivo Uukkivi

Reasons for ranking: WeirFoulds moved up one spot in this year's ranking. The firm achieved many wins for clients, including a successful appeal by **St. Mary's Cement (Canada) Inc.** to allow development of its Etobicoke concrete batching facility to proceed.

OMB and court matters or hearings: Representing **Simon Papatragiannis** and **Nicollette Potter** regarding their appeals against new zoning standards for Ossington Avenue between Queen Street West and Dundas Street West (Kussner); representing **Marcela** and **Philip Oreopoulos** regarding appeals by **Samantha Rush** and **Zoran Vukasinovic** regarding a committee of adjustment decision to approve minor variances to permit construction of an addition to their property at 5 Dacre Crescent (Lord)(√); representing **Starbank Developments 1860 Corp.** regarding its appeal to permit a two-storey commercial building with 214 parking spaces at 1860 Bayview Avenue (Kussner); representing **St. Mary's Cement (Canada) Inc.** regarding its appeal of

an interim control by-law preventing establishment of a concrete batching facility at 194 New Street in south Etobicoke (McQuaid)(√).

7 [6] Ritchie Ketcheson Hart & Biggart



Andrew Biggart, John Hart, Bruce Ketcheson, Effie Lidakis, John Ritchie

Reasons for ranking: Ritchie Ketcheson's work representing the city as well as the **Toronto and Region Conservation Authority** on cases before the board earned the firm a number seven spot in this year's ranking.

OMB and court matters or hearings: Representing **Domenic** and **Carmella Fantilli** regarding their appeals against new zoning standards for Ossington Avenue between Queen Street West and Dundas Street West (Ketcheson); representing **Dunpar Developments Inc.** regarding its appeal to permit development of 43 row houses at 1145 Ossington Avenue (Ketcheson)(x); representing the TRCA regarding appeals by **R & D Investments Inc.** to permit development of six detached dwellings on Sheppard Avenue East next to Boydwood Lane (Ketcheson)(settlement); representing Toronto regarding an OMB decision to permit development of a large-scale retail centre at 840-842 York Mills Road and 16 Lesmill Road (Biggart)(x); representing **Carmela Serebryany-Harris** regarding her appeal to permit development of a new house at 212 Vesta Drive (Ketcheson)(x)

8 [n/a] Stikeman Elliot



Jim Harbell, Calvin Lantz

Reasons for ranking: Stikeman Elliott earned a number eight spot in this year's ranking working on some successful residential and non-residential appeals at the board.

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OMB and court matters or hearings: Representing **Charles Lefkowitz** regarding minor variance appeals to permit construction of an addition to an existing house at 124 Dewbourne Avenue (Lantz); representing **National Rubber Technologies Corp.** regarding its appeal of official plan and zoning by-law amendments to implement the St. Clair Avenue Study (Harbell); representing **Delterra Inc.** and **Humberview Auto Centre Ltd.** regarding an appeal by the **Old Mill Community Association** against a city decision to approve a rezoning application to permit development of a residential building on site of a former automotive dealership (Lantz)(settlement).

of 15 townhouses at 38 Tideswell Boulevard (Paton) (settlement); representing **Mario Lenzo** regarding his appeal of a committee of adjustment decision to permit development of a one-storey addition to an existing one-storey home at 23 Tangmere Road (Paton)(x); representing **Alnoor** and **Nevine Aziz** regarding an appeal by **Don Blunt** against a committee of adjustment decision to approve development of a two-storey home at 7 Pine Crescent (Paton)(v); representing **Westside on the Park** regarding an appeal initiated by **2147789 Ontario Ltd. (Baywood Homes)** to permit development of a 15-storey mixed-use building at 2-6 Lisgar Street (Paton)(settlement); representing **King's Club 1071 King Street West** regarding appeals by **1030 King General Partner Inc.** to permit development of two 14-storey condominiums at 1030 King Street West.

9 [n/a] **Andrew Paton, Q.C.**

Reasons for ranking: Andrew Paton flew into this year's top ten achieving settlement agreements on two residential cases, such as a townhouse development on Tideswell Boulevard and a 15-storey mixed-use development at 2-6 Lisgar Street.

10 [10] **Kagan, Shastri**



Paul De Melo, Ira Kagan

Reasons for ranking: Kagan, Shastri maintained its number ten spot in this year's ranking,

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Methodology

The end of year tradition at NRU examines the legal side of planning and development in the City of Toronto, primarily focusing on cases that have come before the Ontario Municipal Board from August 2010 to July 2011 as reported by Novae Res Urbis - Toronto Edition.

Send us your interesting board and court decisions and development applications by email or fax, to ensure they are covered in NRU-Toronto Edition for the 15th annual ranking to be

published in December 2012.

How the information is collected—We track each of the law firms mentioned in NRU - Toronto Edition (OMB News, predominately but not exclusively) over a one-year period between August and July. From there we determine the firms that are most frequently mentioned and sort through their projects and hearings. Some firms are involved in a variety of developments across Toronto, while others have particular associations to major clients.

Determining the top 10—Balancing the number of clients, the range of projects and the difficulty of cases, as well as unique features about each project or case is our most difficult task. This assessment is based only on items covered in NRU - Toronto Edition and does not account for the vast number of cases with which firms are involved. It also does not include matters such as minor variance applications and assessment appeals or firms that participated as part of a development team without our knowledge. Hence, there is a degree of subjectivity in our ranking.

The listings—Lawyers that are part of the planning and development law team for each of the top-10 ranked firms are noted. In cases that involved an OMB decision where a clear winner/loser or settlement was determined, the appropriate symbol (v) or (x) or (settlement) follows the case description. If there was no clear win/lose/settlement or the matter involved a pre-hearing or is still pending before the OMB, no symbol appears. A square bracket after this year's ranking indicates the firm's placement in last year's NRU listing.

CITY IN BRIEF

Airport spur deal

Earlier this week the province announced that it had reached financial closure with **AirLINX Transit Partners Inc.** for construction of the three-kilometre rail spur linking Pearson Airport and **GO Transit's** Georgetown corridor, a crucial part of **Metrolinx's** long-simmering air rail link. The joint venture between **Aecon Group Inc.** and **Dufferin Construction Company** will design, build and finance the spur and a new passenger station at Pearson's Terminal 1 for \$128.6-million.



Construction is expected to begin this spring. The price and completion date of summer 2014 are fixed in the contract.

The rest of the air rail link is expected to be completed in time for the 2015 PanAm/Parapan American Games. Upon

completion, travel times between the airport and Union Station are expected to be about 25 minutes.

Out with the old

This week the **TTC** retired the last of its non-accessible buses, meaning that all of the system's bus routes are now fully accessible. The 170 routes now all feature the half-low floor, half-elevated buses, accessible for wheelchairs and scooters. The first accessible buses were introduced in 1996 and now the fleet numbers almost 1,800. **nrU**

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successfully representing appeals by **41 Ossington Ltd.** and **28-30 Givins Street Holdings Ltd.** to allow their four-row house development to proceed and by **Dan Hall** to allow development of a new home at 79 Fishleigh Drive.

OMB and court matters or hearings: Representing **41 Ossington Ltd.** and **28-30 Givins Street Holdings Ltd.** regarding their appeals to permit severance of 28 and 30 Givens Street into four lots along with an easement to develop four residential row houses (Kagan)(✓); representing **R & D Investments Inc.** regarding its appeal to permit development of six detached dwellings on Sheppard Avenue East next to Boydwood Lane (De Melo)(settlement); representing **1772014 Ontario Inc.** regarding its appeal to permit development of a 36-storey condominium tower at 36 Park Lawn Road (Kagan); representing Dan Hall regarding appeals to permit

development of a new single-detached home at 79 Fishleigh Drive (De Melo)(✓).

The next ten...

11. [12] Borden Ladner Gervais
12. [13] McMillan
13. [15] Wood Bull
14. [17] MacDonald Sager Manis
15. [5] Fraser Milner Casgrain
16. [n/a] Bratty & Partners
17. [n/a] Thomson Rogers
18. [n/a] Paliare Roland
19. [n/a] Papazian Heisey Myers
20. [n/a] Fasken Martineau. **nrU**

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TORONTO OMB NEWS

Board awards costs to applicant

In a decision issued December 14, board member **Mary-Anne Sills** awarded costs to **Erin Hogan** regarding an appeal by **Younes** and **Sadeh Ipchilar** of a committee of adjustment decision to approve her application for minor variances, which was dismissed by the board. The variances were required to permit redevelopment of her home at 193 Forest Hill Road.

Hogan sought an award of costs in the amount of \$28,589, claiming the appeal was frivolous and resulted in her having to prepare a full case for the board. She said Younes and Sadeh Ipchilar were fully aware she would be required to retain experts to defend against the appeal and yet they made no effort to present planning evidence to support their appeal.

The board noted Ipchilar's experience as home builders made them aware of the standard of evidence required to support an appeal of a minor variance application before the board and gave them an understanding Hogan would likely be required to hire professionals to give evidence to support her application at a hearing.

"With full knowledge of the standard of evidence that would be expected/required from both parties, the respondents proceeded to the hearing of the appeal with no intention of presenting any land use planning evidence to support their appeal. For an individual to file an appeal and then show up at the board hearing completely unprepared to present any evidence to support their reasons for appeal, serves only to squander the time and resources of the other party(ies) and the board. In the board's opinion, such actions

constitute both frivolous and unreasonable conduct," wrote Sills in the decision.

The board awarded costs of \$3,500 in favour of the applicant to cover the cost of the sunlight and shadowing studies, an issue the appellants said they would raise and be prepared to defend at the hearing.

Solicitor **Adam Brown (Sherman Brown)** represented Erin Hogan. Younes and Sadeh Ipchilar were not represented by counsel. (See OMB Case NO. PL110178.) [nru](#)



193 Forest Hill Road

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TORONTO PEOPLE

Long-time provincial bureaucrat **Geoffrey Hare** has been reappointed chair of the **Canadian Transportation Agency**.

Hare boasts more than 25 years of experience working for

the Ontario government, including senior management positions in the finance and economic development and trade ministries, as well as with the Ontario SuperBuild Corporation and Ontario Jobs and

Investment board. Most recently, Hare was the deputy minister of public infrastructure renewal and he is also a former board member for the Ontario Realty Corporation and the Ontario Clean Water

Agency.

Hare's new three-year term at the head of the agency begins February 12.

Bernie Morton is leaving the Sussex Strategy Group,

where he provided strategic counsel and communications services. Morton will become the new CAO of **Kindersley**, Saskatoon.