

WINNING APPROVAL AT CITY HALL

Landowners and developers in Ontario need approval for most forms of land use development from municipal councils. Following are 10 ways to help you win such approval, summarized from a speech I gave recently to a program of the Municipal Section of the Ontario Bar Association:

1. Identify What the City Wants

Obviously, you (or your lawyer or agent) must be familiar with your planning and development objectives. But you should also identify what the municipality wants, which increasingly includes compliance with provincial policies and plans, like the Provincial Policy Statement, Growth Plan and/or Greenbelt Plan.

2. Analyze the Opposition

Learn who opposes your proposal, and why. Your opponents may object to changes in use or users, economic loss, or lack of compliance with planning principles, plans or by-laws.

3. Retain Appropriate Consultants

You should hire appropriate consultants to address relevant planning issues. Depending on the nature of the application, you may require a lawyer, land use planner, traffic consultant, engineer, environmental consultant, hydrogeologist, growth economist, or other consultants.

4. Before You Lobby...

As you likely know, the Criminal Code prohibits bribery of municipal officials; the Ontario government has imposed disclosure requirements where councillors have financial interests, and the City of Toronto requires registration before any lobbying activities, which are broadly defined.

5. Speak to Staff and Councillors

First, speak to municipal, agency and external consultants who comment on the application from the public policy perspective. Staff frequently influence how politicians vote, and may carry some weight with the Ontario Municipal Board if the matter is appealed. Then speak to politicians, who will also consider the application from their political perspective, particularly in a municipal election year. If the issue is contentious, councillors will likely pay more attention to your efforts to compromise and provide community benefits than to property rights and development expectations.

6. Know Your Procedural Rights

The Planning Act requires at least 1 public meeting so that you can make oral or written representations with respect to official plans, zoning by-laws, plans of subdivision, minor variances and consents. Most municipal planning decisions are subject to appeal to the Ontario Municipal Board. However, recent amendments have eliminated appeals with respect to settlement boundaries and areas of employment, and restricted appeals by objectors who did not make oral or written submissions.

7. Be Familiar With the Procedure By-law

Every Ontario municipality has a by-law setting out the details of its procedure, including how to be listed on the agenda, which body hears deputations, and time limits for oral deputations.

8. Speak Clearly

Use non-technical language, and respond to all policy and political concerns. If you have allies, bring them to the meeting to demonstrate their support.

9. Write Persuasively

Write clearly and briefly. Council agendas are long, and councillors may not read the details of technical or legal arguments. Explain the advantage of resolution by council rather than by the OMB or the courts without being perceived as threatening.

10. Watch Council for Bad Faith or Illegality

Council planning decisions can usually be appealed to the OMB. They may occasionally be challenged in court if they fail to meet minimal procedural standards, or are based on improper considerations.

The material set out above does not constitute legal advice. If you want advice on making an oral or written presentation to a municipal council, or on an appeal to the OMB, please contact me at: rkanter@msmlaw.ca or (416) 361-2619

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