The Land Economist Online

Vol. 38, No. 3
Winter, 2008-9

Legislative Update

by Andy Manahan, PLE

Fall Economic Statement

On October 22, Finance Minister Dwight Duncan announced that the world-wide financial crisis would result in a provincial deficit of $500 million for fiscal year 2008-2009. Economist Don Drummond of TD Bank has put forward a more pessimistic scenario, with a deficit of closer to $5 billion if spending continues at its current pace.

There is recognition by both Premier McGuinty and the finance minister that infrastructure investment will be an important tool to stimulate the economy during this downturn.

Provincial-Municipal Fiscal and Service Delivery Review

On October 31, Municipal Affairs and Housing Minister Jim Watson and the Minister of Finance announced an agreement with municipal leaders to take back some of the costs that were downloaded by the province in 1997. Due to the tough economic situation that Ontario faces, Queen's Park has proposed a phased approach that would result in a full upload by 2018.

Relief for municipalities, ranging from disability support, social assistance benefits, court security, additional support for land ambulance and the Ontario drug benefit plan, will be provided over the next few years. The province suggests that the Review will result in an annual benefit to municipalities of $1.7 billion compared to 2007. Minister Watson stated that removing all income-redistribution programs from the property tax base will allow the municipal sector to use the savings on other priorities.

Places to Grow

As part of the ongoing strategy to direct growth to existing urban and designated settlement areas, the Ministry of Energy and Infrastructure has released a primarily pictoral document on the 'Size and Location of Urban Growth Centres in the Greater Golden Horseshoe.' In the cover letter, the Hon. George Smitherman says that the approximate size and location of each of the 25 urban growth centres has been determined in consultation with municipalities and others. More precise delineation of the urban growth centre boundaries will be set forth in official municipal planning documents.

The province aims to encourage municipalities to create complete communities that offer a mix of housing, working, shopping and playing options. Depending on the growth centre, minimum density targets of 150, 200 or 400 residents and jobs per hectare have been set. With more intense development, these centres will become the hubs for rapid transit connections.

To view the maps of all 25 growth centres, from Barrie to Uptown Waterloo to St. Catharines to Peterborough, go to www.placestogrow.ca.

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Professional Journal of the

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Legislative Beat cont'd ...

Official Plan Conformity

In the minister's speech to the Places to Grow Summit in Vaughan on November 5, he commented: "In 2009, we're going to reach an important milestone. By next June, we expect all upper and lower tier municipalities in the Greater Golden Horseshoe will have brought their official plans into line with provincial policy."

The Minister went on to say, however, that "in very special circumstances, I recognize that some lower-tier municipalities require upper-tier decisions to complete their work. If necessary … and only if necessary, I am prepared to look at deadline extensions of no more than 12 months for lower-tier municipalities who request one."

Hopefully the province does not show too much leniency on this deadline, otherwise this could translate into unnecessary delays in infrastructure investments.

Growth Freeze in Halton?

Halton Region has sent a strong message to the province and developers that it will not approve sewer and water pipe connections to 40,000 new housing units in north Oakville and Milton unless it has the necessary infrastructure funding. Regional Chair Gary Carr has said that "growth doesn't pay for itself" and that the province must pay a higher share of the capital costs to build two new hospitals and expand two existing hospitals. In addition, Halton wants more development charge revenue to cover a wide range of facilities and servicing costs.

Understandably, it is difficult for municipalities to fund major capital projects from property tax revenues. In a recent column, Christopher Hume of the Toronto Star argued that municipalities must be given new revenue tools to help build communities. He suggested a greater portion of the gas tax, a share of the personal income tax or a cent of the GST.

If municipalities are to increase their investment in infrastructure, as the Provincial-Municipal Review advocates, then the province will have to provide more funding powers to local governments.

Northern Ontario Growth Plan

Now that implementation of the Greater Golden Horseshoe growth plan has begun, the province is turning its attention to developing a plan for Northern Ontario. The challenges for this vast area will be dramatically different than those experienced in southern Ontario. Only six per cent of Ontario's population lives in Northern Ontario and its population is predicted to generally decline, except perhaps for regional centres such as Sudbury and Thunder Bay. Therefore, the goal is to encourage growth and to diversify the economic base from predominantly resource-based industries such as mining and forestry to an economy that is more sustainable. For example, during consultation sessions there were calls for more reliable and affordable energy supplies as well as enhanced skills training and education.

Metrolinx

On November 28, the Metrolinx Board approved its regional transportation plan, *The Big Move: Transforming Transportation in the Greater Toronto and Hamilton Area,* which calls for $50 billion in new projects over 25 years. Release of the draft plan during the summer was delayed so that the investment strategy could be released simultaneously. In an unusual twist, when the draft plan was released in September it was decided that a full discussion on the investment strategy could wait until 2013. This revised strategy was based on the notion that selling the merits of an expanded transportation network, using the already committed $11.5 billion provincial allocation, was preferable to controversial new revenue generating schemes such as road and parking pricing or municipal sales taxes.

Metrolinx's Board listened to a number of organizations that pointed out the importance of beginning a public dialogue on funding options in 2009. It is now up to Queen's Park to provide the green light and to explicitly state its budget commitments for a successful rollout of the plan.

Andy Manahan is executive director of the Residential and Civil Construction Alliance of Ontario, and AOLE's Legislative Chair.

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Keep your contact info up to date!

All AOLE members are listed on the Association's website.
Please take a moment to make sure we have your current information. Go to

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click Members and Enter Directory. Find your listing and click on your first name. From your contact page, you can click Update Your Record to log in and make any changes.

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Intensification Options

by Jay Brown BSc MBA

In its efforts to reduce urban sprawl, the Province of Ontario has recently passed new legislation promoting infill intensification, rather than traditional greenfield development. It has also used provincial policy statements to promote 'smart growth' and direct development to occur within the existing built-up area.

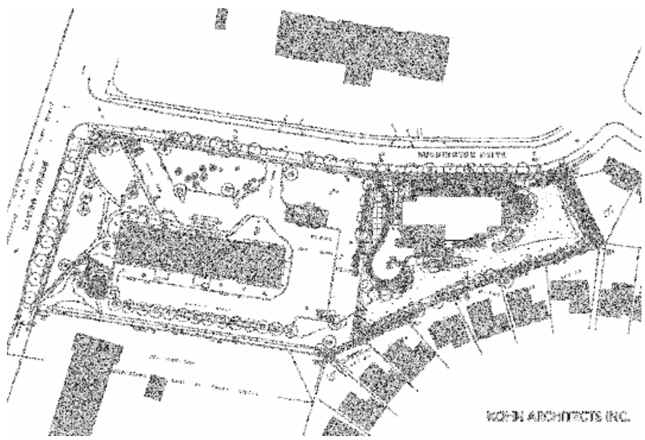
There are only so many parking lots left within the built up areas which can accommodate this type of development. But back in the late 1960s, when land was both inexpensive and plentiful and the planning regime was not concerned with 'eyes on the street' and urban design oriented streetscapes, most rental projects were constructed as 'towers in the park'. Those properties usually feature a slab building on top of a sprawling one-level underground garage, with large surface parking lots … and lots of surplus land.

Some developers have been looking at existing rental apartment sites as a way to 'find' new high rise opportunities.

In some cases, this excess land can be suitable for high rise intensification. However, in addition to all the usual issues of traffic, height, shadows, parking requirements, angular plains, vehicle and pedestrian access, built form, urban design, environmental issues, set backs, densities, soils issues, and municipal and rate payer input which may exist on traditional infill sites, apartment infill sites can present a unique set of challenges.

Severance conditions

First is the issue of severing legal title. To create a development site, one first has to get approval from the Committee of Adjustment to sever the old one. Whereas a severance application is pretty straightforward in a greenfield environment, for an infill development the City of Toronto's Official Plan will seek to secure the existing apartment building as rental housing. Developers must enter into an agreement (registered on title) that the existing rental housing will be maintained and the owner will not apply for either a demolition permit or a plan of condominium for a certain period of time. This might be through the Consent Agreement, or if an Official Plan Amendment is required, it might form part of the Section 37 Agreement. In either case, it must be negotiated very carefully as it can negatively impact the residual value of the existing rental building.



This Brown Group project adds a new condominium beside and to the east of the company's existing rental apartment building on north Bayview Avenue in Toronto.

Tenant management

It is not unusual that certain 'concessions' are made to the existing tenants during the planning process. For example, a developer may need to agree to improve certain amenities, and/or that none of the costs associated with these improvements will be passed on to the tenants by way of an Above Guideline Rent Increase.

If tenants feel engaged in the planning process, they may end up in support of the project. Some may be potential customers when the condominium units go to pre-sale. That said, if the process is not managed properly, in addition to a problematic Planning Application and potential appeals to the Ontario Municipal Board, the developer may find itself facing a difficult tenant association and numerous tenant applications at the Landlord Tenant Board.

Site constraints

Given the amount of road frontage or surface parking at many existing apartment buildings, it may be necessary for certain services or facilities to be shared between the proposed and existing structures. For example, it is not uncommon to have a shared driveway or garbage pick up / loading area.

Often, it is proposed that a new building would be built on top of what is currently surface parking for the existing building, with both buildings sharing one large new underground parking lot. This can be very tricky during construction. Excavating around an existing inhabited apartment building is not an easy task. As well as temporarily rerouting access for existing tenants, one may need to shore up the existing building. Plus, one will usually need to provide temporary parking for existing tenants.

Sharing also can have both marketing and legal implications (the requirements for easements, right of ways, and shared services agreements). All shared services would need not only to be approved by the City Planners, but they would also need to be disclosed to potential purchasers in the Condominium Documents.

Conclusion

Although there are many challenges associated with creating new infill developments on existing apartment sites, there are several large apartment sites with substantial excess lands in good locations. This may offer a great deal of opportunity for those who are prepared to meet the challenges. Further, if the site is purchased and managed properly, there is the opportunity for holding income and capital appreciation on the apartment building.

As the government and market continue to seek out quality high density housing, this kind of development will likely become more commonplace in the future.

Jay Brown is general manager of The Brown Group of Companies, Toronto. In addition to owning and managing approximately 2,500 residential units and 500,000 square feet of industrial and commercial space, The Brown Group is currently developing several hundred acres of land and multiple high rise condominium projects in the GTA.

Ontario housing & global economics

By Peter Norman MA, PLE

There is considerable debate concerning the effects of the global economic slowdown and accompanying credit challenges on Canada's economy, and Ontario's economy in particular. This article investigates the likely impact on Ontario's housing market.

The current economic conditions give us pause for thought. Canadian real GDP in the third quarter stood at a scant 0.5% higher than the third quarter of 2007, the slowest year-over-year growth since the fourth quarter of 1991. Economic conditions in Ontario, where malaise in the manufacturing sector is most worrisome, are weighing the national economy down.

Yet, there remains evidence that Canada is riding out the global storm quite nicely. Canadian banks have by and large remained solvent and strong, while a pantheon of banks around the world have turned to their national governments for bailouts. Outside of the manufacturing sector, employment growth in Canada and in Ontario remains pretty good. In October, some 77,000 more Ontarians were working than one year ago. With job growth comes income – another critical component of economic progress and well-being. In the third quarter, after-tax income per person in Canada was some 5.1% higher than a year before – 2.6% after inflation.

Generally speaking, good job growth and healthy income gains fuel strong consumer confidence that ultimately boosts housing markets. But as we look ahead to 2009, a starkly different picture may be emerging.

The Conference Board of Canada reports that consumer confidence recently hit a 26-year low:

- People are genuinely worried and confused by evolving conditions internationally;
- Bank lending to Canadian businesses has severely dried up since the credit crisis, leaving firms scrambling to conserve cash. Employees can interpret these cost-cutting measures worrisomely; and
- Recent news suggests that housing prices may be flattening or declining.

Of four recent major bank forecasts, three are predicting job declines for Ontario in 2009, with an average net loss of some 55,000 jobs across the province. This may seem modest by 1991 standards, when Ontario lost 177,000 jobs, but will still have a significant impact on the housing market. What has to date been an 'output' recession in Ontario, will soon morph into a jobs recession. History tells us that when the workforce declines in a recession, jobs generally don't begin to expand again until several quarters after the economy recovers.

All told, the combination of deteriorating confidence in Ontario and the strong likelihood that the global economic slowdown will bring slower economic conditions in Ontario spells negatively for the housing sector.

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Kevin Hicks: 1930-2008

Kevin Hicks, former senior partner of Davis Hicks and 1978-9 President of the Association of Ontario Land Economists, died this past April. He was 78.

Born in Middlesbrough, England, Kevin attended Barnard Castle private school in Durham, followed by two years of national service with the Royal Electrical and Mechanical Engineering regiment. In 1953, he received a degree in Estate Management from the University of London.

After he and his new wife Vera emigrated to Canada, Kevin worked initially for the City of Toronto, followed by a move to Chambers and Meredith, a well-regarded real estate sales and consulting firm. In 1968 he became a partner in Davis Hicks, and later its senior partner until his retirement in 1995.

Kevin was a highly regarded specialist in commercial and investment real estate, often providing litigation support as an expert witness. As a member of his firm in the early 1970s, you soon learned that Kevin never fooled himself by ignoring inconvenient facts. He would be just as blunt about his own reports as about those of others.

Kevin was a long-standing member and very supportive of the AOLE. He served on Council for several years, becoming president in 1978-9. His other professional distinctions included being an accredited member of the Appraisal Institute of Canada and a Fellow of the Royal Institution of Chartered Surveyors.

In addition to his professional activities, Kevin was a member of the Toronto Barbarian RFC. Within 24 months of his taking over the presidency in 1964, the struggling group was fielding full teams. He is also remembered for one episode where he appointed a 21-year-old novice as captain, explaining to a few ruffled feathers. "We have to get new blood and not be so stuffy." Kevin's other sports passion was golf, taken up after joining the Thornhill Country Club in the 1970s and continued throughout his retirement.

His beloved wife Vera died in 1994. Kevin is survived by his two children, Jane and Alistair, seven grandchildren, and close partner June Field.

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In the third quarter of 2008, single-family housing starts in Ontario fell 4.6% on a seasonally adjusted basis from the second quarter. Apartment construction also moved modestly lower. In fact, Ontario's new housing market has been moderating for five years, since the 2003 peak. This could suggest that much of the correction has already taken place, so future market adjustments may be more modest. However, evidence from previous downturns suggests a more cautionary view.

There is a distinct risk that recent softness in housing prices, alongside sagging confidence, could beget a downward spiral in prices.

Typically the fall off during new housing construction downturns in Ontario is relatively steep, and several years transpire before construction returns to the peak levels. After the market peaks in 1973 and 1987, the annual number of housing starts fell 64% and 67% respectively. Those two peaks were 14 years apart. It took 16 years to reach the 2003 peak.

While housing starts in Ontario fell some 20% between 2003 and 2007, history suggests we could see much lower housing starts ahead. It also could be many years before the market returns to strong volumes again..

Resale markets are typically somewhat more stable than new construction. In Ontario's past big housing downturns, the total volume of resale transactions through the Multiple Listing Service typically fell by some 35% - about half the fall in housing starts.

The resale market has been more resilient since the 2003 recent peak in housing starts as well. Data from recent months, however, show Ontario's resale prices softening and in some cases showing modest declines.

On this latter point, the implications are broad. There is a distinct risk that recent softness in housing prices, alongside sagging confidence, could beget a downward spiral in prices.

Fortunately, there is little evidence that housing prices in Ontario are very high in an absolute sense. And unlike recent bubbly markets in the U.S., the U.K., and (more locally) Calgary, prices here have been rising at a measured average of 7% per year over the past decade and never more than 9% per year.

The other good news is that the risk of significant mortgage defaults in Ontario – a key trigger for house price deflation through the forced sale of foreclosures during periods of soft housing demand – remains very low. Homebuyers in Ontario may be sitting on the sidelines during the economic downturn, but owners are also less likely to want to sell their homes. That is more likely to portend flat prices than serious downward pressure.

Due to long construction times, high rise condominium apartments are the riskiest component in a declining housing market. In the GTA, condominium apartments accounted for some 50% of new home sales over the past three years and sales in 2007 astounded analysts by topping 23,000 units. But sales are down some 30% year-to-date, and more than 40% in the most recent quarter. And a dizzying array of new projects are under construction.

We estimate that just under 20,000 unsold units exist within projects that are standing, under construction, or in "pre-construction". At 2007 sales volumes, this would represent less than a year of sales, but if the pace continues to fall, this could easily become two or three years' worth of supply. Thus the condominium apartment sector in Toronto is in modest risk of emerging into a period of oversupply as Ontario weathers the economic storms ahead.

In conclusion, while Ontario's housing market enters the current period of economic uncertainty from a fairly stable base, we face a worrisome period ahead.

Peter Norman, a well-known professional land economist and forecaster, is Senior Director of Economic Consulting, Altus Group. Toronto-based Altus Group provides clients with a wide range of real estate consulting services.

News Briefs

Bright spot in the auto sector

December 4 saw the official opening of Toyota's new $1.1 billion plant in Woodstock, Ontario. The new plant, which will produce RAV4 small SUVs, employs 1,200 people in one shift. While that is down from an originally announced two shifts, it is a nice change from recent news in the 'big three'. Auto industry analyst Denis Desrosiers pointed out on CBC that the job losses at General Motors, Chrysler and Ford have been balanced out by job creation at Toyota, Honda and Suzuki. It was ironic that prime minister Stephen Harper's meeting with the Governor General kept him too late to attend the ceremonies.

Builders/developers to report under FINTRAC

As of February 20, 2009, many 'real estate developers' come under federal anti-money-laundering/terrorism legislation. Individuals and companies who sell new commercial or industrial buildings, and those who sell five or more new residential units will have to keep some additional information, and report all $10,000+ cash transactions and suspicious transactions to the Financial Transactions Reporting and Analysis Centre of Canada (FINTRAC). For more information: www.fintrac-canafe.gc.ca.

Brantford brownfield redevelopment a step closer

Brantford's lengthy wait for provincial approval of its revised Official Plan finally ended at the beginning of December. A recent court decision had required the province to consult with natives on development matters. As Brantford Expositor columnist Tim Philp said in mid November: "Consultation is a very good thing. However, for Brantford, this could not have come at a worse time." The time clock was "quietly ticking away" on $12 million in federal funding for the city's Greenwich/Mohawk brownfield redevelopment. And rezoning for that was held up in the OP revision, Philp said.
Although the plan can still be appealed to the OMB, city staff are working on the zoning bylaw and the Request for Qualification process is going ahead.
But, Philp said, once the land is clean and about to be developed: "You can bet your next paycheque ... there will be a native protest about land claims at this site."
Until claims are settled, much is unsettled.