

Ontario
Municipal
Board
655 Bay St Suite 1500
Toronto, ON M5G 1E5
Tel (416) 326-6800
Fax (416) 326-5370
www.omb.gov.on.ca

Commission des
affaires municipales
de l'Ontario
655 rue Bay Bureau 1500
Toronto, ON M5G 1E5
Tel (416) 326-6800
Fax (416) 326-5370
www.omb.gov.on.ca



January 31, 2003

Ontario Association of Committees of Adjustment
And Consent Authorities
c/o Linda Gavey
P.O. Box 568
Cayuga, ON N0A 1E0

Dear Ms Gavey:

**RE: Committees of Adjustment
Date of Decision in Applications for Minor Variances**

The Ontario Municipal Board (the "Board") has been advised of a practice that has caused confusion and delay in the appeals process to the Board and that has been engaged in by at least one Committee of Adjustment (the "Committee").

As you are aware, subsection 45 (8) of the *Planning Act* (the "Act") provides, in the operative portion for the purposes of this letter, that a decision of the Committee is not valid unless it is in writing and is signed by the members of the Committee who concurred in that decision.

Subsection 45 (12) of the Act provides for a twenty-day appeal period following the making of the decision to the Board and the Board has held that the "making of the decision" is the date that the decision is signed in accordance with subsection 45 (8) of the Act.¹

The Board has, recently, become aware of a practice of a Committee wherein the decision is not signed on the day of the making of the oral decision but the notice of the decision indicates that the twenty days to appeal to the Board runs from the date of the making of the oral decision notwithstanding the fact that the decision may not be signed until two weeks, or more, after the oral decision has been made.

In such a case, the Board has been advised that the Deputy Secretary-Treasurer of the Committee has taken the position that the decision is "deemed" to have been made in accordance with the Act on the date of the making of the oral decision.

Board staff have advised the Committee that there is no provision in the Act for a "deemed decision" in such cases and the last date for appealing is twenty days from the date of the making of the decision in accordance with the Act.

¹ *Dube v. Singh*, 40 O.M.B.R. 333

We have contacted the solicitors for the Committee in question and have asked those solicitors to advise the Committee accordingly in order to ensure that there is certainty in relation to the time limitations for appeal to the Board.

Of particular concern is the possibility that potential appellants may be precluded from filing appeals in the first instance because the date upon which an attempt to file an appeal may be more than twenty days from the date of the oral decision of the Committee but within twenty days of the date of the making of the decision.

The Board is aware, to date, of only one such instance and that matter will be addressed in proceedings at the Board, however, in general, it is likely that, if any other such instances have occurred or were to occur, the Board would not have the information to be aware of them.

We would ask that you bring this matter to the attention of the appropriate persons in your association in order to ensure consistency in the practice of Committees of Adjustment in Ontario, particularly, in regard to Committees of Adjustment ensuring that each decision is "made" in accordance with the provisions of the relevant subsections of section 45 of the Act.

Yours very truly,



Joanne Hayes

Senior Case Manager