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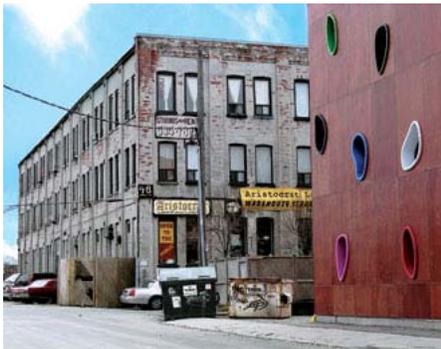
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Bedevilled Triangle

June 2007

You can blame the developers or the OMB, but the flap over the Queen West Triangle revealed city hall's dirty little secret: no one's minding the shop [By Philip Preville](#)



Unwilling at Abell: the residents of 48 Abell, an old warehouse in the Queen West Triangle, banded together to fight a proposed condo development
 IMAGE CREDIT: KEVIN STEELE

More than a decade ago, as gentrification pushed Toronto's grassroots arts community out of the once-decrepit Queen and Spadina area, it picked up and moved farther west, past the mental hospital, to the Triangle, an abandoned industrial area south of Queen between Dovercourt and Dufferin. At the time, it was the kind of place you moved to only if you wanted to be left alone—an ugly, forgettable stretch bordering on Parkdale, where no one ever seemed to get on or off the streetcar. Inevitably, in the wake of these urban pioneers came others, creeping ever westward: art galleries like Stephen Bulger, restaurants like Swan and Bar One, and, in 2004, the Drake Hotel, which became a social hub and turned Queen West West into a destination in its own right.

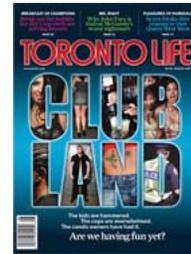
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In response, community members created Active 18 (so named for the area's municipal moniker, Ward 18—Davenport), which favoured intensification but sought to preserve the Triangle's unique character. The group organized well and quickly, and counted among its supporters internationally renowned urban planner Ken Greenberg and arts-minded developers Margie and Christina Zeidler, the main movers behind the transformation of the Gladstone from flophouse relic to chic gallery-hotel. While all three condo proposals were considered inappropriate, much of the discussion centred on the 120-year-old former lamp factory at 48 Abell Street, where many artists had set up their studio homes, and whose owner proposed its demolition.

As the weeks and months passed, both Active 18 and the developers became frustrated by what they saw as city hall's inaction on the file. Eventually, the developers took their case to the Ontario Municipal Board, the much loathed, Queen's Park-appointed tribunal that has the final say on all development disputes in the province. On January 10, after 35 days of arguments and evidence, the OMB ruled in favour of the condos—to the outrage of artists' groups, local residents, city officials and many sage observers.

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make its own planning decisions. In February, Mayor David Miller announced that the city would contest the decision by all available means. By focusing public outrage squarely on the OMB and putting Queen's Park on the defensive, Miller managed to deflect attention from a bigger problem: the vast, toxic malaise that currently afflicts the city's interactions not just with the OMB, but with developers, residents and its own planning department. These relationships form a sort of polygamous marriage, and the Queen West Triangle has become a multipartite divorce proceeding. As with all relationship breakdowns, there's a whole sordid history behind it, lots of recrimination in every direction and more than enough blame to go around. And the artists are the kids caught in the middle.

More than a decade ago, as gentrification pushed Toronto's grassroots arts community out of the once-decrepit Queen and Spadina area, it picked up and moved farther west, past the mental hospital, to the Triangle, an abandoned industrial area south of Queen between Dovercourt and Dufferin. At the time, it was the kind of place you moved to only if you wanted to be left alone—an ugly, forgettable stretch bordering on Parkdale, where no one ever seemed to get on or off the streetcar. Inevitably, in the wake of these urban pioneers came others, creeping ever westward: art galleries like Stephen Bulger, restaurants like Swan and Bar One, and, in 2004, the Drake Hotel, which became a social hub and turned Queen West West into a destination in its own right.

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By law, the city has six months to respond to a development application. Failure to do so is grounds for an OMB appeal. Yet the city's planning department is perfectly upfront about the fact that, for complex applications that require the attention of community planners for zoning changes, approval takes at least nine months. The result is a policy perversion: on any major application, the city guarantees that it will fail to respond on time. If reasonable efforts are being made to advance a file, developers generally do not appeal at the six-month mark; they'll let the process work its way to a conclusion. But it's a dysfunctional truce: developers don't appreciate being put in a position where they must voluntarily suspend their legal rights, while planners fear and loathe the threat of an appeal hanging over their every move.

In the Triangle, the truce did not hold. The city received the application for the Bohemian

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Embassy condominiums at 1171 Queen Street West on May 17, 2005. It already had two Triangle-area applications on file, dating back years: one for 48 Abell Street, the other for 150 Sudbury. The owners of 48 Abell had initially proposed to maintain their existing building and legalize the artist live-work studios that had been set up there, while 150 Sudbury had secured approval to build four-storey townhomes. In a June 2005 preliminary report, planning staff recommended public consultations on the Bohemian Embassy application, while noting that its height and density provisions were inappropriate. At that point, there was no reason to believe any outstanding issues couldn't be resolved.

Then things got complicated. In August, the owners of 48 Abell revised their application, now requesting permission to demolish the building and erect two condo towers—one 24 storeys, the other 19. In November, 150 Sudbury revised its application, adding a 16-storey tower. (These changes point to another ingrained dysfunction: developers can submit massive modifications to their existing applications at almost any time without incurring additional fees.) From the city's perspective, the proposals now amounted to a radical transformation of the Triangle. In a report dated November 9, city planners asked council to direct them to complete an area study before approving anything. They now felt they needed to step back and consider the area as a whole.

To the Bohemian Embassy's developers, Baywood Homes, the city's shift was sudden, unexpected and unacceptable. "My client had no warning of a need for an area study," says Ronald Kanter, lawyer for Baywood. "It seemed to me the city had dropped the ball on the application." The developers appealed to the OMB less than seven months after filing their original application, and the other developers followed suit. The city conducted its area study while simultaneously attending preliminary OMB hearings.

Kanter says the planning department's inability to respond within the six-month time frame "tells you something about how seriously the city takes its legal responsibilities. This has become a habit." Adam Giambrone, the local councillor, retorts that "six months isn't sufficient for a large and complex city like Toronto" and that "developers who appeal to the OMB before the nine-month mark are operating in bad faith." Both sides of this argument are trafficking in half-truths. On the city's side, there's a lot of self-flattery in the insistence that Toronto is so much more complicated than, say, Ottawa or Hamilton. On some level, cities are cities: they have wires on poles and pipes underground; they have buses and garbage trucks on the roads; they have separate, professional bureaucracies to manage each of these things; and all these bureaucracies must co-operate on any development application. For what it's worth, Ottawa is no more enamoured of the OMB than Toronto, but its planning department rarely fails to respond to development applications on deadline. That said, in the Triangle case, a gold rush mentality was taking hold, and the city's desire to step back and reassess the neighbourhood was justified, if not expedient. What's less justified was its inability to anticipate the gold rush and establish a vision for the area before developers came calling.

Like the department he runs, Ted Tyndorf looks more imposing than he actually is. At 53, Toronto's chief planner stands a broad-shouldered six-foot-one with dark hair and a moustache. He's remarkably mild-mannered as he lays out the state of his department. He describes it as "unacceptable," which is a diplomatic euphemism for disastrous. His staff is faced with an avalanche of building applications—140,000 housing units currently in the approval pipeline. On average, every weekday, three major applications come through the door. This is a problem, because processing applications is, broadly speaking, only one-third of a planner's job. The most important and most fun part of the job is doing strategic planning, preparing a vision for the future of a neighbourhood. The third part consists of mopping up at the OMB: assembling the city's case, attending the hearings, giving testimony and implementing the aftermath of its rulings. Between the overflowing inboxes of applications and the steady stream of OMB appeals—last year, planning staff logged 14,000 hours on OMB cases alone—no one has a minute to devote to strategic planning. Which means the most important work never gets done and no one has any fun.

So they leave. City planning, whose resources were slashed by a third through the 1990s, is currently funded for a full-time complement of 344 staff but usually has more than 20 vacancies at any given time, unable to fill the jobs faster than people quit. "Planning is stuck in reactive mode," says Toronto Centre-Rosedale councillor Kyle Rae. "Morale is very low. People are moving to either the private sector or to other city departments." Tyndorf notes that they also go to other municipalities, where the stress level is lower. The workload has become so heavy that "we now have significant health issues. We've had a lot of people taking time away from the office."

And yet, when Rae tried to remedy the problem in last year's budget, he was astonished to

watch Tyndorf open wide and swallow his words whole. “The chief planner asked for 12 more staff last year, and I supported him in budget deliberations,” recalls Rae. But senior city managers had been told to keep their budget increases below two per cent, and Etobicoke-Lakeshore councillor Peter Milczyn opposed the proposal. “When the question was put to Ted in council,” says Rae, “he stood up and said he didn’t need it.” Looking back, Tyndorf admits that “tactically, it may have been a mistake for me to say, ‘We will cope with what we have.’” The department’s grand malaise has affected all its files, including the Triangle. “What we hadn’t done was flesh out the vision for the area in sufficient detail,” Tyndorf says. “It’s just a matter of priorities. We ran out of people to do the work.”

In the meantime, most city councillors, resigned to a bad situation, have learned to cope by watching all the development files in their wards like hawks, through every step of the process. “You have to keep close tabs on them,” says Scarborough Southwest councillor Brian Ashton, who chairs the city’s planning committee. “Politically, they can kill you.” Rae is notorious for managing all his ward’s development files personally, refusing (until recently) to delegate them to his staff. “Most planners,” he says, “don’t have the level of experience they need to handle the kind of intensification that’s happening downtown.” Rae also notes that he is “very motivated” to keep the OMB out of the process. That means taking a leadership role in the file, driving the bureaucracy and being brutally honest with residents about expectations. “Too many residents simply don’t want change,” he says, “but I have fought with residents many times, and it has never cost me re-election.”

Indeed, if a councillor sides with angry residents, it can produce a gross miscarriage of planning justice: a development proposal that conforms to the official plan and is approved by city planners but is blocked at council then ends up before the OMB. In such instances, the public is treated to the surreal sight of the city’s legal staff arguing against its own planners’ recommendations.

Members of Active 18 have publicly chided Adam Giambone for inexperience, and some observers wonder whether he has the passion for land-use issues that’s required to be a truly effective councillor. At the early stages, he delegated the file to his executive assistant, Kevin Beaulieu. When he did take the lead, it was too late to broker a solution. In May and June of 2006, he chaired a series of working groups involving city planners, residents and developers, but the OMB appeals had already been launched, so “the developers were present,” Giambone says, “but they weren’t participating.” He seems to have learned from the experience: when I asked him what he would do differently if he could turn back the clock, he said, “hold fewer working groups. The points of compromise were far apart. They made us put effort into the process with no real chance of success.”

The real problem with the OMB, as urban planner Ken Greenberg aptly puts it, is that “the form of the discussion is like a trial, which is not a good way of talking about planning.” Ostensibly an appeals body, the OMB actually holds the power to ignore all earlier proceedings and render any judgment it sees fit, based on whatever evidence it considers pertinent, which is exactly what it did in the Triangle case. Still, Greenberg believes that the general public is much better educated about urban issues than it used to be, and that “it’s now possible to have very sophisticated discussions about city building. Planning ought to be collaborative, but the cross-examination by lawyers tends to be binary and cannot manage problems of organized urban complexity.” Yet this binary forum is where city hall and the development community do much of their talking these days—a perpetual divorce court.

This is the conundrum that the city faced when it put together its Triangle case for the OMB. Both the planning and legal departments worked full-time on the file in the months leading up to the hearings, completing the area study and laying out a vision. They made artists their focal point—but they did not mount a save-the-struggling-artists-from-eviction defence. Rather, the city put forward a more nuanced position: it contended that artists are self-employed entrepreneurs in the “creative sector” of the economy, and that the Triangle was one of the most important areas of cultural activity in the city. The creative economy matters not just to city hall, but to Mayor Miller personally, since it represents a major plank in his campaign platform, and one of his grand ambitions for Toronto. He has targeted creative industries—art, music, theatre, film, fashion, media, publishing, curation, architecture, urban and industrial and graphic design, software and game development, floral arrangement (it’s a broad category)—as pillars of the city’s future economic growth. It’s a strategy that plays to our existing strengths, since Toronto is home to more than 25,000 designers, the third-largest total in North America. The idea is to turn the cultural capital of English Canada into a global creative hub, a member of that select group of cities (New York, San Francisco, London, Tokyo, Paris) renowned for their contributions in the world of art and design.

That might seem a bit of a stretch, but it's a worthy ambition that could pay off handsomely. Estimates suggest that, globally, creative industries are valued at roughly \$2 trillion per year, or about double the size of the entire Canadian economy.

In its arguments before the OMB, city legal staff told the chair of the hearings, Don Granger, that the issue wasn't the displacement of artists, but the displacement of creative-industry jobs. The centrepiece of their position was a "no net loss" policy, which stated, in essence, that new residential developments in the Triangle must not result in a loss of industrial and commercial space. They also wanted to ensure that new development would be welcoming to artists and creative entrepreneurs: they suggested measures to encourage the building of artist live-work studios, and proposed that these be managed by an organization like Artscape, a non-profit that serves as a sort of economic development bureau for artists. They even proposed ways to lower the amount of industrial and commercial space the developers were required to build under the official plan—a way of demonstrating their willingness to compromise.

But the OMB, as Greenberg says, is no place for compromise—once you're at trial, the time for negotiation is over. In his rulings, Granger dismissed the city's position on creative-industry jobs and its no-net-loss policy as "inconsistent." He clearly thought their arguments were half-baked: if the city wants to protect employment, he wrote, "it must be able to rely on objective criteria and data achieved through comprehensive analysis of the planning area." He also dismissed their arguments on parkland, height restrictions and density. Granger wasn't the only one who was underwhelmed by the city's arguments. "The city had difficulty with its positions, which were confusing and undeveloped," says Charles Campbell, the legal counsel for Active 18, who you'd expect to be on the city's side. "If I were a developer, I'd be furious that I had to plan my project with this kind of lack of guidance from the city." Granger also expressed disappointment with all the parties' inability to find a mutually agreeable solution, especially given that everyone, including Active 18, agreed on the need for intensification. "It was an odd decision," says councillor Ashton. "It's as if Granger was saying, 'I'd like to make a different ruling here, but I can't.'"

Notably absent from the hearings were the planning department's big guns, including the Toronto and East York District's planning manager, Lynda Macdonald; its director, Gary Wright; and Tyndorf himself. In fact, the last time the city's chief planner testified before the OMB was in the case of the Home Depot site on the waterfront in 1998; Paul Bedford took the stand for a full week, and the city won the case.

The only thing more disappointing than the city's arguments was the OMB decision itself: it ruled in favour of numerous high-rise condo towers, an eight-storey building on the south side of Queen Street, and a park that would be impossible to find from any major street, while reserving only some ground-floor spaces for non-residential uses, "including affordable artist live-work studios where subsidy is available." And so an outraged Miller launched his appeals, based largely on the principle that the OMB had shown a blatant disregard for the city's duty to protect employment areas and its right to set economic development policy. But the appeals were also a shrewd political ploy: they shifted the focus away from the city's handling of the case and put it squarely on the OMB, which sparked a public relations war with provincial Liberals. Queen's Park had in fact introduced a series of reforms to the OMB, which took effect at the start of this year, designed to give municipalities more power in the appeals process; the Triangle development proposals, since they were launched years ago, were governed by the old rules. The Liberals had been hoping to make those reforms part of their platform of accomplishment for this fall's election campaign, but they've now been tarnished by the Triangle controversy. Still, they're not likely to tinker with the OMB any further until they see the reforms in action over the next couple of years.

Can there be a happy ending in the Triangle? Despite all the bad blood, the answer is a hard-nosed maybe. The city's appeals, by putting everything on hold indefinitely, might give the developers new incentive to negotiate. After all, they had intended to capitalize on the artistic buzz of the Queen West West area, and the negative publicity has been a buzz killer. The most likely scenario is for the city to allow increased density in exchange for artist live-work studio space and other public amenities that will entrench the Triangle's status as a creative hub.

But a resolution in the Triangle won't fix the broader dysfunctions with city planning. It's worth noting that, recently, the best examples of good planning were not led by the planning department. For its West Don Lands project, the Toronto Waterfront Revitalization Corporation called upon private-sector planners, as did the Toronto Community Housing Corporation for the Regent Park redevelopment. Neither plan ended up before the OMB.

Tyndorf has been kept busy this spring putting together a list of priority areas that are

attracting development interest, in order to avoid merely reacting to applications as it did in the Triangle. Still, his department remains short of staff and financial resources. Former chief planner Paul Bedford offers this simple, cost-effective solution: reinstate the city's planning board. Back in the '70s, the 12-member board comprised prominent citizens and some councillors. The city's planning staff were technically employed by the board, which vetted all development applications. This structure helped take politics out of the equation, which most experts consider essential to good city building. The idea is to create complex, well-informed discussions early on in the approvals process, so that fewer cases ever reach the OMB.

"The relationship with the OMB was much different back then," says Bedford. "It operated more like a true appeals body, and its rulings were nowhere near as legalistic." If there's any lesson to be learned from the Triangle, it's that the OMB merely works with what it's given, and its decisions will be as poor as the evidence and arguments it's provided.

