

# **Advancing Transparency, Equity, and Accountability: A Strategic Proposal for Reforming the Richmond Hill Committee of Adjustment**

*Addressed to Richmond Hill City Council*

March 2024



John Li, Ph.D., PMP  
Member, Committee of Adjustment (COA)

# A Better Richmond Hill (ABRH) Study Report

## Introduction

Having served as a Committee of Adjustment (COA) member for a full year, I have gained insights from within the committee. This report summarizes my in-depth examination of systemic issues affecting the Richmond Hill COA and its Operational Team. It addresses some long-standing community concerns and proposes viable solutions to foster meaningful change and enhance the COA's service in balancing the interests of all stakeholders.

## Part 1: Identification of Current Issues

### 1. Unusually High Application Approval Rate

The COA's approval rate for applications at individual hearings, which exceeds 90%, contrasts starkly with the more moderate 70-80% range observed in neighboring municipalities. Many of these approvals are made despite organized and cogent opposition from neighbours, whose concerns are routinely disregarded and diminished in the COA's decisions, contrary to the *Planning Act*. In neighboring municipalities, approximately one quarter of COA applications typically face refusal or are deferred for amendment at individual hearings. In contrast, in Richmond Hill, fewer than ten percent of applications are subject to requests for amendments and, according to available records, there are no instances of outright refusal. This discrepancy raises serious questions about the criteria and processes used in decision-making, compounded by the persistent refusal of the COA to provide reasons and explanations for its decisions, as required by the *Planning Act* and discussed in further detail below.

Table 1 Comparing COA Application Approval Rates in GTA Municipalities								
Municipalities	COA Hearing Meeting Durations: <i>See Hyperlinks</i>	Total Applications Processed During the Hearing Meetings	Approved		Deferred		Refused	
Mississauga	<a href="#">First Quarter of 2023</a>	207	145	70%	55	27%	7	3%
Brampton	<a href="#">First four Months of 2023</a>	154	121	79%	23	15%	10	6%
Markham	<a href="#">July 2022-June 2023</a>	208	153	74%	52	25%	3	1%
King City	<a href="#">2023</a>	98	82	84%	10	10%	6	6%
	Combined Totals	667	501	75%	140	21%	26	4%
Richmond Hill	<a href="#">2023</a> **	88	80	91%	8	9%	0	0%

Sources: Data collected up to January 12, 2024, from the respective municipal public records. For more details, see the links above.

Note \*\*: Unable to acquire additional data from previous periods for comparison due to an **Information Monopoly** <sup>[R05]</sup>

### 2. Disproportionate Favoring of Developers on Contested Applications

Residents of Richmond Hill, including Gary Zikovitz <sup>[R06]</sup>, Arnold Schwisberg, and Pat Pollock <sup>[R07]</sup>, along with groups like A Better Richmond Hill (ABRH) <sup>[R01]</sup> and Richmond Hill Umbrella Residents Group (RHURG) have consistently raised concerns about the COA's decisions on applications that are contested by the surrounding neighbours. These decisions often favor developers who want to change the status quo, overlooking neighbouring interests, any *Official Plan* mandates on neighbourhood character, and the explicit provisions of the *Planning Act*. Some specific cases have resulted in monster home infilling projects and the approval of some controversial zoning changes that have been pushed through in the face of substantial public opposition. Examples range from applications a few years ago at 52 Penwick Crescent <sup>[R02]</sup> and 68 Birch Avenue to the most recent applications at 34 Roseview Avenue <sup>[R03]</sup>, 28 Scott Drive <sup>[R04]</sup>, and 30

Scott Drive. Such approvals have led some long-time residents who have lived in the area for decades to choose to sell their homes and leave Richmond Hill, while others are simply led to despair and frustration at the obvious lack of fairness in a municipal public process.

### 3. Lack of Operational Transparency

A comparative study with other GTA municipalities has distressingly exposed **a systemic lack of transparency** within the Richmond Hill COA. The transparency issues manifest in several ways:

Table 2 - Comparing COA Operational Transparency Across GTA Municipalities						
Municipalities	Disclose Complete Application Info to Public?	Duration of Online Availability for Full Application Records	Allow for Virtual Meeting Participation	Online COA Meeting Streaming: Live and Recorded Public Access	Online Availability Period for COA Decisions	COA Webpage: Clear, Detailed, User-Friendly
Toronto	Yes	10 Years Upon Request	Yes	Yes	Varies	Yes
Mississauga	NO	Since 2019	Yes	Yes	5 Years	Yes
Brampton	Yes	Since 2019	Yes	Yes	12 Years	NO
King	Yes	Since 2018	Yes	Yes	6 Years	Yes
Vaughan	Yes	Upon Request	Yes	Yes	18 Years	Yes
Markham	Yes	Since 2018	Yes	Yes	6 Years	Yes
Richmond Hill	NO	NEVER	NO	NO	1 Year	NO

Sources: Data obtained from respective municipal websites. Note: Each cell includes a [hyperlink](#) for result verification.

- Inadequate Disclosure of Planning Details and Insufficient Notice Period:** Essential information, particularly in planning drawings, is frequently not disclosed to the public. This lack of transparency significantly obstructs residents' ability to evaluate the potential consequences and impacts of proposed COA applications on their living environments. Moreover, the concerning practice of issuing such critical information with less than a week's notice further compounds the issue. This approach provides the public with inadequate time to comprehensively review, respond to, and engage with these proposals, thereby critically limiting their ability to make informed decisions and effectively participate in the decision-making process.
- Absence of Detailed Rationale in Decisions:** COA decisions lack a detailed explanation, making it difficult for the public to understand the basis of these decisions. This practice not only breeds suspicion but also hinders accountability. The *Planning Act* sections 45(8.1) and 45(8.2) explicitly require that reasons be given, but instead and despite the number of occasions on which its failure to provide reasons is pointed out, there is no attempt by the COA to provide meaningful reasons for its decisions.
- Restricted Access to Records and Meetings:** The COA's practices of limiting public access to historical records effectively shroud past decisions and obstruct public scrutiny. Furthermore, the absence of virtual meeting options, including live streams or recordings, limits public involvement and undermines independent verification of the specifics of a given meeting, potentially concealing irregularities or misconduct in hearings. There have been multiple instances in which concerns regarding this issue have been raised.

Take Table 1's data as an example: despite being a member of the COA, I am unable to access additional records for comparison. In early 2023, the COA administration staff denied my request for records from the

## A Better Richmond Hill (ABRH) Study Report

previous term <sup>[R05]</sup>. If I were a general member of the public, my access would be even more restricted, limited to only 65 decision records. In contrast, any member of the public could obtain over 500 records from King City and thousands more from the other three municipalities. This raises the question: **Why is the Richmond Hill COA Staff withholding critical information and historical records?**

### Part 2: Analysis of Underlying Causes

#### 1. Opaque Operational Model and Its Ripple Effects

The Richmond Hill COA's operations are characterized by a lack of transparency and openness, effectively restricting meaningful public scrutiny and consequently insulating the municipal administration from accountability. Such opacity hinders public efforts aimed at improving the efficiency and quality of municipal services, thereby maintaining processes that are oriented towards convenience rather than public service. This lack of transparency leads to several outcomes:

- **Undermining Accountability:** The opacity of COA operations interferes with the ability of the public to access needed facts and to monitor and verify actions during meetings. This includes denying access to hearing recordings and withholding essential details like architectural drawings needed for assessments. As a result, residents are left without sufficient evidence to defend their rights.
- **Detrimental Impact on Neighborhood Dynamics:** The lack of openness also cultivates a climate of distrust and unease among residents, eroding the community's faith in their municipal government and diminishing their confidence as stakeholders in the planning process. Over time, many choose silence over confrontation, feeling overwhelmed. An illustrative case is the development proposal at 30 Scott Drive; despite its many flaws, it met with no resistance from neighboring residents. This lack of opposition stems from the community's previous futile attempts to contest a prior irrational application at the adjacent site, 28 Scott Drive. Such experiences have deeply impacted the community's willingness to engage, subtly altering neighborhood dynamics. Some residents have chosen to sell their homes and relocate to avoid prolonged and fruitless battles.

Poor decisions by the COA not only affect individual rights and property values, but also the very fabric of community trust and cohesion.

#### 2. Misinterpretation of COA's Role as a Proxy for Council

In Richmond Hill, there appears to be a misunderstanding of the COA's function by the planning department and its operational team. They perceive the COA as an auxiliary entity rather than recognizing its independence and authority as a proxy for the city council. This misperception has led to COA hearings being conducted more as procedural formalities to ratify planning staff decisions, rather than as platforms for thorough scrutiny aimed at balancing the interests of all stakeholders. In stark contrast to other municipalities, I have observed during my tenure that out of over a hundred cases reviewed, not one has diverged from the staff's recommendations. This pattern highlights a missed opportunity for the COA to fulfill its role as a critical oversight mechanism in the planning process, ensuring that development within the community is conducted fairly and equitably, with due consideration for all involved parties.

#### 3. Imbalanced Representation in COA Composition

The current composition of the Richmond Hill COA panel predominantly includes members with ties to the local infill development sector. Specifically, **of the five members, four (80%) have professional connections to this industry** — three are directly involved, and one is employed by a related company. Only one

member does not have these ties. This composition naturally introduces a biased perspective to the committee's decisions and is important for understanding the dynamics within the committee.

The bias in handling the most controversial applications at 34 Roseview and 28 Scott Drive is evident, with the majority's voting power easily overriding public objections. The application at 28 Scott Drive is a consulting project of a COA member, and though the member recused himself from this hearing because of his business relationship with the developer and/or agent for this property, he has presided over many CoA hearings in Richmond Hill which were projects of the same developer and/or agent. Such clear conflicts of interest should not be permitted. The extreme imbalance in the COA's membership, coupled with its opaque operational approach, presents a deeply concerning situation in which bias and unfairness are likely to thrive.

#### 4. Leadership and Culture Issues in the COA Operational Team

The leadership and culture within the COA operational team seem to prioritize independence and self-regulation, which overshadows their role as facilitators of public service. This inclination towards self-governance is further complicated by an ongoing lack of accountability, leading to several consequences:

- **Ignoring the Official Plan Mandate in Staff Reports:** Section 45 of the *Planning Act* mandates that a COA must satisfy four tests to approve a variance. Crucially, the variance must uphold the general intent and purpose of the Official Plan, akin to practices in municipalities like Markham where COA decisions are supported by solid justifications. Despite the persistent advocacy of residents <sup>[R06]</sup> <sup>[R07]</sup>, staff reports in Richmond Hill consistently fall short in demonstrating adherence to specified criteria, notably overlooking critical development compatibility factors like massing, as outlined in section 4.9.2.4 of our Official Plan <sup>[R08]</sup>, and the Richmond Hill Urban Design Guidelines <sup>[R09]</sup>. This oversight significantly contributes to the approval of numerous applications that deviate from rational planning principles, as evidenced by every case <sup>[R02]</sup> <sup>[R03]</sup> <sup>[R04]</sup> discussed in this study.
- **Resistance to Change:** The COA operational team exhibits a deep-seated reluctance to adopt more transparent and accountable practices. Discussions following a recent hearing meeting suggested that many of their current practices, such as non-compliance with the *Planning Act* and the adoption of a uniformly minimalist format for meeting minutes, are not rooted in a belief in their efficacy. According to a recent discussion, this resistance to change appears to be a strategy to reduce their workload, a stance that is tacitly approved by the leadership. Nonetheless, this resistance to change significantly impedes progress and cultivates a culture of complacency.
- **Retaliation Against Dissent:** COA members who advocate for change or transparency face obstacles and, in some cases, **punitive actions**. This environment discourages open discussion and dissent, essential components of a healthy decision-making process.

### Part 3: Proposed Solutions

#### 1. Enhancing Transparency and Public Engagement

- **Full Disclosure of Application Details and Extended Public Review Period:** Implement a policy that mandates the comprehensive disclosure of all application details, along with an extension of the existing public review period, currently less than a week, to at least double its length prior to a hearing. This mandate should include site plans, architectural drawings, and other supporting documents such as environmental study reports and arborist reports, where relevant. Additionally, it should include neighborhood submissions, such as letters of consent or objection, when applicable.

## A Better Richmond Hill (ABRH) Study Report

- **Mandatory Conflict of Interest Disclosure:** Members of the COA must be mandated to disclose any conflicts of interest regarding hearing applications, even if they are absent from the meeting.
- **Virtual Meeting Accessibility:** Facilitate live streaming and provide recordings of COA meetings to allow broader public participation and oversight. This step will also aid in verifying the accuracy of meeting minutes and decisions.
- **Historical Records Accessibility:** Improve public access to complete historical COA records, extending at least to one previous COA term, to facilitate public reference, comparative analyses, and understanding of decision-making trends over time.

Implementation of the aforementioned transparency measures faces no major obstacles and should be **achievable within a timeframe of three months.**

### 2. Aligning with the Planning Act and Integrating Best Practices from Neighboring Municipalities

- **Adherence to the Official Plan's Compatibility Criteria:** Staff reports and COA decisions must align with the Official Plan's compatibility criteria. Infill developments are required to respect the character and distinguishing features of neighbourhoods and shall be context-sensitive and compatible with adjacent and surrounding areas, as mandated by Section 4.9.2.4 of the Official Plan. Proposals must consider the patterns of streets, blocks and lanes, size and configuration of lots, building mass (including height, scale, and density), types of nearby residential buildings, and patterns of front, rear and side yard setbacks and landscaped open space areas. It is recommended to benchmark on the practices of the Markham COA, which includes a detailed rationale in any decisions that allow for substantive changes to the zoning by-laws.
- **Research and Adaptation of Practices from Neighboring Municipalities:** Conduct comprehensive studies of COA practices in other GTA municipalities. This research should focus on identifying successful strategies for enhancing transparency, fairness, and regulatory compliance, which can then be adapted to enhance Richmond Hill COA operations.

### 3. Improving Planning Staff Preparedness and Involvement

- **Staff Training and Preparedness:** Ensure that planning staff attending COA meetings are adequately prepared and well-informed about the cases under discussion. This entails a comprehensive advance review of cases being heard, and prepared readiness to respond to questions.

### 4. Ensuring Equitable Representation on the Committee

- **Diverse Committee Composition:** Restructure the COA's membership to incorporate a diverse range of stakeholders, thus ensuring a balanced representation of interests. This should include members from businesses, the community, and independent professionals, with no single group exceeding 40% of the overall composition.

The current composition of the COA panel, with only one out of five members (20%) unaffiliated with the infill sector, undermines its objectivity and credibility. This issue is exemplified by an unusually high application approval rate, highlighting potential bias that aligns with public apprehensions. Maintaining this composition until 2026 seems unjustifiable. **A timely restructuring of the COA to prevent any single interest group from holding a majority is not just logical but also a necessary step that should be prioritized.** This strategic move is crucial for restoring trust, ensuring fairness, and enhancing the integrity of the COA's operations.

- **Transparent Member Selection Process:** Establish clear, transparent criteria for COA member selection to minimize conflicts of interest and promote impartial decision-making. This process should be open to public scrutiny and input.

## 5. Enhancing Accountability, Leadership, and Operational Culture

- **Fostering a Service-Oriented Leadership and Staff Culture:** Learn from the best practices of neighboring municipalities, especially Markham, and undertake a comprehensive review and revision of any processes that fall short of alignment with the established best practices. This initiative aims to shift from a self-serving work model to one that prioritizes public service and accountability, ensuring an integrated approach to municipal management and planning.
- **Promoting Public Accountability in Operational Practices:** Establish a systematic evaluation system to continuously review and adapt COA operational practices, ensuring their alignment with principles of fairness, transparency, and community welfare. This process should be open to public scrutiny and input, utilizing open-house meetings, online forums, and structured feedback mechanisms to encourage active community participation and hold the COA accountable for its practices.

## Conclusion

The Richmond Hill COA faces significant challenges, including a lack of transparency, deviations from the mandates of the *Planning Act*, imbalanced representation, and resistance to diverse viewpoints. To address these, I propose a set of reforms to cultivate transparency, ensure fair representation, and adopt a service-centric approach within the leadership and operational team.

Key reforms include ensuring the full disclosure of application details, providing enhanced access to virtual meetings and full historical records, diversifying the COA's composition, adhering strictly to the processes required by the *Planning Act*, and adopting best practices from nearby municipalities. These initiatives, along with enhanced accountability of leadership and staff and greater public engagement, aim to foster impartial decision-making and enhance operational efficiency.

Implementing these recommendations with dedication can transform the Richmond Hill COA into a paragon of good governance, reinforcing core democratic values of transparency, fairness, and community service. Our goal is to reshape the COA into a trusted, fair, and integral part of the Richmond Hill community, genuinely **representing and serving the balanced interests of all stakeholders**.

## References

- [R01] - A Better Richmond Hill: Advocating for Accountable, Transparent Governance.
- [R02] - Examining Richmond Hill's Minor Variance Process: The 52 Penwick Crescent Case and Beyond.
- [R03] - Dissenting Analysis of 34 Roseview Application with Supporting Data.
- [R04] - Dissenting Analysis of 28 Scott Drive Application with Supporting Data.
- [R05] - An Ignored COA Member's Formal Request for Access to Historical Records.
- [R06] - Gary Zikovitz Advocates for Improvements to the COA Minor Variance Process.
- [R07] - Pat Pollock's Request to City Council for Reviewing COA Operations and Addressing Deficiencies.
- [R08] - Richmond Hill Official Plan, Section 4.9.2.4, Often Overlooked by the COA
- [R09] - Requirements in the Richmond Hill Urban Design Guidelines Often Overlooked by the COA