

# Bruce Engell

Partner

## Toronto

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## Practice Areas

Environmental

Litigation & Dispute

Resolution

Municipal

Planning & Land Development

Bruce Engell is a Partner at WeirFoulds, and co-chair of the Municipal, Planning and Land Development Practice Group.

His practice focuses on issues respecting the development, use and ownership of land, including municipal, planning, and environmental matters, title and lease disputes, industrial contamination, waste management facilities, road allowances and building permits. He has appeared as counsel in many significant court and Ontario Land Tribunal matters.

Bruce is author of *Ontario Planning Practice: Annotated Statutes and Regulations*, an annotated loose-leaf publication, and co-author of the book, *Remedies and the Sale of Land, 2nd ed.*

### Called to the Bar

- Ontario (1989)

### Education

- LL.B., University of Toronto, 1987

### Affiliations

- Advocates' Society
- Ontario Expropriation Association
- Ontario Bar Association

## Notable Mandates

Has acted on:

- the City of Vaughan's New Official Plan, dealing with 145 appeals to the Ontario Municipal Board
- appeals to the City of Barrie's Growth Management Official Plan dealing with an urban expansion of over 2000 hectares
- the City of Ottawa's 5-year Official Plan review, respecting its urban boundary
- the approval of a residential condominium project in the Yonge Eglinton area
- the assembly, and redevelopment for a block in North York's downtown for several hundred

## WeirFoulds LLP

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residential units, office and retail uses

- lease and public process issues affecting a major residential and commercial redevelopment project for a shopping centre in Alberta
- zoning issues for the establishment of millions of square feet of retail uses
- issues relating to several lengthy store wars hearings
- cost sharing disputes with a municipality involving the jurisdiction of the Board to resolve cost-sharing issues and impose them on a municipality
- a leading decision respecting the interplay between environmental assessment provisions and planning approvals by the Board
- a critical series of landfill related disputes about the potential expansion of the only landfill then serving Toronto, York Region and Durham Region. Established the jurisdiction of municipalities to enact zoning by-laws relating to landfills and their relationship to Certificates of Approval
- several disputes respecting alleged Provincially Significant Wetlands, natural heritage systems and the extent of the Board's jurisdiction to control tree cutting
- litigation respecting allegations of abuse of public office by a municipality in the course of dealing with a residential subdivision
- litigation respecting the historical usage of unopened road allowances and municipal obligations to provide access over them
- litigation respecting forcing a municipality to open and maintain a road allowance providing access to an illegal residential community in a cottage zone
- the judicial review of a municipal restructuring which had taken effect, was ordered quashed and on subsequent proceedings on how to unwind the restructuring
- the litigation of a failed complex joint venture, ground lease development agreement for an entire block in downtown North York
- a building code appeal involving reliance on easement rights to establish sufficient spatial separation to meet building code requirements for unprotected openings
- the litigation of a commercial tenant's liability under its lease for capital taxes levied against the landlord
- a challenge both in the Courts and before the Board to complex municipal arrangements to impose municipal charges exceeding the amounts permitted under the *Development Charges Act*
- a complex shopping centre title dispute including cross-easements and redevelopment projects which triggered both litigation and Board proceedings with the determination of the limits and inter-relationship of each
- a defamation trial and appeal involving statements made during the consideration of a development proposal
- how to deal with education development charges which had not been collected during a period when they had been declared unconstitutional, but later found to be constitutional on appeal

## Reported Cases

*Duca v Vaughan (City)* (2014), 79 OMBR 204

*Ottawa (City) By-law No. 2012-147 Re*, 2013 ONSC 5062 (Div Ct)

*Antorisa Investments Ltd. v Mississauga (City)* (2013), 13 MPLR (5th) 149 (OMB)

*Meaford (Municipality) v Grist*, 2013 ONCA 124

*Meaford (Municipality) v Grist*, 2011 ONSC 5195

*Port Colborne (City) v Nyon Oil Inc.*, 2010 ONSC 3693 (Div Ct)

*Re Barrick Gold Corp. v. Ontario (Minister of Municipal Affairs and Housing)* (2000), 51 O.R. (3d) 194 (C.A.) (Municipal Restructuring Challenge in Black River-Matheson)

*Re Municipality of Metropolitan Toronto OPA 4* (2000), 40 O.M.B.R. 1 (O.M.B.) (Toronto's "Second Suites" by-laws)

*Valeta Management Inc. v. Vaughan (City)* (1996), 33 O.M.B.R. 337 (O.M.B.) (Planning Instruments for Keele Valley Landfill Site)

*Georgian Glen Development Ltd. v. Barrie (City)* (2005), 13 M.P.L.R. (4th) 194 (Ontario Superior Court of Justice)

*Barrick Gold Corp. v. Ontario (Ministry of Municipal Affairs and Housing)* (2000), 51 O.R. (3d) 194; Court of Appeal

*Barrick Gold Corp. v. Ontario (Minister of Municipal Affairs & Housing)* (1999), 7 M.P.L.R. (3d) 148 (Ontario Superior Court of Justice)

*Dylex Ltd. v. Premium Properties Ltd.* (1998), 17 R.P.R. (3d) 227; 110 O.A.C. 172 (Ontario Court of Appeal)

*Westnor Ltd. v. North York (City)* (1997), 35 O.M.B.R. 146; 1 M.P.L.R. (3d) 131 (Ontario Municipal Board)

*Bonamorex Inc v. Toronto (City) Committee of Adjustment*, (1997), 35 O.M.B.R. 18 (Ontario Municipal Board)

*McPherson v. South Dumfries (Township) Committee of Adjustment* (1996), 34 O.M.B.R. 210 (Ontario Municipal Board)

*Dylex Ltd. v. Premium Properties Ltd* (1996), 3 R.P.R. (3d) 164 (Ontario Court of Justice, General Division)

*Vaughan (City) Official Plan Amendment 332 & Zoning By-law 364-91 (Re)* (1996), 33 O.M.B.R. 337 (Ontario Municipal Board)

*Wasaga Beach (Town) Official Plan Amendment 37 (Re)* (1994), 30 O.M.B.R. 385 (Ontario Municipal Board)

*Keneber Inc. v. Midland (Town)* (1994), 16 O.R. (3d) 753 (Ontario Court, General Division)

*Wasaga Beach (Town) v. Simcoe (County)* (1994), 30 O.M.B.R. 399 (Ontario Municipal Board)

*McColl v. Gravenhurst (Town)* (1993), 1 C.C.E.L. (2d) 227; 67 O.A.C. 55 (Ontario Divisional Court)

*Revenue Properties Co. v. Victoria University* (1993) 101 D.L.R. (4<sup>th</sup>) 172; 62 O.A.C. 351 (Ontario Superior Court of Justice, Divisional Court)

*Revenue Properties Co. v. Victoria University*, (1993), 62 O.A.C 35 (Ontario Divisional Court)

*Wasaga Beach (Town) v. Simcoe (County)* (1993), 28 O.M.B.R. 455 (Ontario Municipal Board)

*Harbour Quay Developments Ltd. v. Metropolitan Toronto (Municipality)* (November 19, 1991), 6 O.R. (3d) 88; (Ontario Divisional Court)

*Wasaga Beach (Town) v. Simcoe (County) (Re)* (1991), 25 O.M.B.R. 266 (Ontario Municipal Board)

*Wasaga Beach (Town) v. Simcoe (County) (Re)* (1991), 25 O.M.B.R. 263 (Ontario Municipal Board)

*Mason Industrial Parks Ltd. v. Barrie (City)* (1989), 23 O.M.B.R. 422 (Ontario Municipal Board)

## Awards

- Recognized in the *Lexpert Special Edition: Infrastructure*, 2023
- Repeatedly recognized in the *Canadian Legal Lexpert Directory* as a leading lawyer in Property Development
- Repeatedly recognized by *Best Lawyers in Canada* as a leading lawyer in Municipal Law
- Repeatedly recognized in the *Chambers Canada Guide* as a leading lawyer in Real Estate: Zoning/Land Use Law

## Speaking Engagements

- Speaker, "The Six-Minute Advocacy Lawyer 2023", Law Society of Ontario, Webinar, May 30, 2023
- Speaker, "What you need to know about Omnibus Bill 66, Restoring Ontario's *Competitiveness Act*, 2018", Webinar, Municipal Finance Officers' Association of Ontario (MFOA), January 24, 2019
- Speaker, "The Planning Justification Report and Municipal Staff Report: What Will They Look Like Under Bill 139", WeirFoulds LLP Municipal and Planning Law Practice 2018 Seminar, April 12, 2018
- Speaker, "Municipal Law Update", The 2017 OMAA Spring Workshop, Minett, ON, May 12, 2017
- Speaker, "Emerging Developments in Municipal and Planning Law", Ontario Bar Association, Toronto, ON, February 10, 2017
- Speaker, "Funding Outside the Box: Tools and Techniques for Funding Infrastructure beyond the Development Charges Act", 2014 AMO Annual Conference, London, Ontario, August 18, 2014
- Presenter, "Administrative Law Practice Basics 2014", Law Society of Upper Canada Continuing Professional Development (CPD) program, May 14, 2014
- Presenter, Planning and Development Law Forum, Langdon Hall, Cambridge, Ontario, April 10-11, 2014
- Panellist, "Tiptoeing Through the Minefield: Testimony at the OMB", 2013 OPPI Conference, London, Ontario, September 19, 2013

- Presenter, The Six-Minute Municipal Lawyer 2013, Law Society of Upper Canada Continuing Professional Development (CPD) program, May 14, 2013
- Presenter, "Using Municipal By-laws to Address Social Problems: Current Challenges", 4th Advanced Creating and Enforcing Municipal By Laws Course (Federated Press), April 11, 2013
- "Opening Statements & Closing Arguments", Advocates' Society, Administrative Tribunal Skills Certificate Program, April 15, 2004
- Instructor, "Questioning Skills Training for Immigration and Refugee Board Members and Officers", Advocates Society/Immigration and Refugee Board, October 23, December 3 and 4, 2003
- "Civil Litigation Skills Certificate Program: Opening Statement and Closing Argument" Advocates' Society, June 13, 2003, London
- Guest instructor, Intensive Trial Advocacy Workshop, Osgoode Hall Law School, July 2002
- "Expert Witnesses and Expert Tribunals: Natural Justice or Curial Deference?" 4 Regulatory Boards and Administrative Litigation 242 (2001)
- "Planning Around Dirty Soil - Jurisdiction and Liability" Weir & Foulds/ Conestoga Rovers and Associates Joint Client Seminars, Mississauga and Cambridge April 14, 21, 1999
- "Accessory Uses: A Broad Brush Approach: Musings on Conlin v. Prowse", 3 D.M.P.L. 235 (1996)
- "The Changing Environment" WeirFoulds Client Seminar, Toronto October 30, 1996
- "Building Permit Issuance - Discretion Re-emerges" 3 D.M.P.L. 1 (1995)
- "Profiting from the New Planning Act" - Sixth Annual Contemporary Legal Issues Conference: Legal Update 95, Toronto May 1995

## Papers

Co-author, *Remedies and the Sale of Land*, 2nd ed. (Toronto: Butterworths, 1998)

Editor, *Ontario Planning Practice* by WeirFoulds LLP (Aurora: Canada Law Book, 1989)

Author, *Ontario Planning Practice: Annotated Statutes and Regulations* (Thomson Reuters, 2020)

## Publications

- Time to Start Again: Land Use Planning in the Pandemic, June 17, 2020
- Quiz: Municipal Bylaws & Commercial Real Estate, May 27, 2013