

LEGAL CORNER CONT'D

very specifically empowered the officials identified in s.25(1) of the BCA to make numerous types of expressly identified determinations; e.g., to decide whether or not a building permit should be issued or refused, pursuant to s.8(2.2); to determine whether a property conforms with prescribed property standards, pursuant to s.15(2); to determine whether a building is unsafe, pursuant to s.15.9; and, pursuant to the provisions noted in footnote 1 herein, to determine the persons “affected” by the orders noted above, so as to entitle those persons to formal service of such orders.

Therefore, the Court found that for each of the three reasons cited above there was no basis upon which to amend the pleadings and denied the same.

CONCLUSION/SUMMARY

We are therefore left with direction from the Court as to what types of decisions can be appealed pursuant to s.25(1) of the Act. Such decisions must be:

1. a decision which the Chief Building Official or an inspector or registered code agency can make under the Act and not some other entity;

2. a real and present decision and not one that is an indication of what a future decision might be; and
3. a decision that is specifically tied into the precise authority annunciated in the Act, i.e., issuance of a building permit, issuance of a stop work order, etc.

This Decision of the Court, with its clarity and thoughtful exploration of the meaning of “decision” as set out in s.25(1) of Act, provides building officials as well as potential appellants valuable guidance as to what can and cannot be subject to an appeal under s.25(1) of the Act. ■

AIRD BERLIS

E-PERMITTING



*Andrea Bassett,
Middlesex Centre*

HOW MIDDLESEX CENTRE IMPLEMENTED E-PERMITTING AND WHAT THE CBO LEARNED ALONG THE WAY

For Arnie Marsman, the Chief Building Official (CBO) in Middlesex Centre, 2020 is the year of the clear desk. Four years ago, Arnie began investigating options for taking his building department digital (also known as going paperless). In September 2019, Middlesex Centre began accepting permit applications online, eliminating the requirements for paper applications and drawings in duplicate.

This is the story of how Arnie and his team went from investigating to implementing e-permitting for Middlesex Centre and the lessons they learned along the way.

ABOUT MIDDLESEX CENTRE

Middlesex Centre is part of Middlesex County and it wraps north and west around the City of London. 19,000 people live in this 587-square-kilometre municipality. The building department is Arnie Marsman, the Chief Building Official and Director of Building Services, Wayne Ysebaert, the Deputy Chief Building Official and Ben Hartman, the Building Inspector. Together, they have over 65 years of experience in the construction industry.

Their department develops staff from within. Arnie started as a building inspector, became the deputy CBO in 2007 and the CBO in 2010 after working closely with the previous CBO. Even after 20 years in the building department, Arnie says, “You think you’ve seen everything, but there’s always something new.” For the team in Middlesex Centre, “something new” is sometimes their own doing because they’ve got a taste for innovation.

MIDDLESEX CENTRE: AN AWARD-WINNING BUILDING DEPARTMENT

In 2015, the Ontario Building Officials Association (OBOA), the Ontario Home Builders’ Association and Tarion recognized Middlesex Centre and five other municipalities for their leadership and support of the 2015 Illegal Building Prevention pilot program. And in 2018, Middlesex Centre won the E.A. Danby Award for their Green Builder Award Program. The E.A. Danby Award recognizes municipalities that demonstrate outstanding achievement through innovation.

When Arnie hung that first award in the office, he started investigating another innovation in building departments: e-permitting. But four years ago, innovation in e-permitting wasn’t a real option for small municipalities.

INVESTIGATION INTO E-PERMITTING, PART 1: IT COSTS AN ARM AND A LEG

Arnie knew many large municipalities had some sort of e-permitting functionality and that going digital was the future. “Our builders were asking us if we could do the same in Middlesex Centre,” Arnie said about paperless permitting. And his team was asking about streamlining permits to deal with increasing demand. In 2016, Middlesex Centre issued 400 permits annually, including 90 new dwelling units. In 2019, they’ve issued 500, including 140 new dwelling units.

Arnie found that bigger cities were using costly software that he couldn’t justify in Middlesex Centre. “We didn’t want to increase permit fees to pay for an e-permitting solution, and taxpayers shouldn’t be paying for it. I got the feeling that e-permitting wasn’t quite ready for a municipality the size of Middlesex Centre,” Arnie said. So, the building department put the idea of e-permitting on the backburner and channelled their innovative spirit elsewhere. While they collected accolades for municipal management activities, innovation in e-permitting was going full steam ahead 6,700 kilometres away — in Helsinki, Finland.

INVESTIGATION INTO E-PERMITTING, PART 2: NIGHTMARES AND OPTIMISM

In October 2018 at a conference in Kingston, Arnie was introduced to Evolta, a Finnish e-permitting company. Though his previous investigation produced no suitable options for Middlesex Centre, Arnie’s curiosity and optimism pushed him into an e-permitting session co-hosted by Evolta, their partner, the City of Windsor and other municipalities. In this session, he listened to horror stories other municipalities shared about their experiences with traditional e-permitting software. It was

enough to give any CBO nightmares: cost overruns, software upgrades, lack of compatibility with other municipal systems.

Recalling these horror stories, Arnie said, “It told me I was right with my hesitation, that it was something I didn’t want. And it confirmed my suspicion that it just wasn’t right for a municipality of our size.”

And yet — ever the optimist — Arnie spoke to Jarkko Turtiainen, Evolta’s SVP of International Business. Jarkko said their e-permitting platform, called Evolve, was an out-of-the-box cloud solution that didn’t require software purchases and could easily integrate into small municipalities. In Ontario, there are 444 municipalities and most of them are small (under 20,000 people).

Arnie was enticed by Evolve’s user-friendly design and the new, innovative technology; he wanted to see what was next in e-permitting and how that differed from traditional software. Arnie requested more information because “Middlesex Centre is big enough that the amount of paper is bogging down our office with filing cabinets, and our builders are looking for an e-permitting option.”

PARTNERING WITH THE FINNISH TO FINISH THE UNFINISHED

After the conference, Arnie met with Jarkko and the Evolta Sales Manager, Peter Rotenberg. The Finnish version of their e-permitting solution is used by 60% of Finnish municipalities for more than 100,000 permit applications per year. At the time, the Canadian version was still under development with the City of Windsor.

Evolta doesn’t believe in telling building departments what they need; instead, they listen and then build their e-permitting solution to optimize the work that building departments excel at. The system wasn’t live in Windsor, and Arnie saw another innovation opportunity that could help Middlesex Centre and other building departments across Ontario. “We jumped at the chance to partner with Evolta and help them design it,” Arnie said about their decision to sign on with Evolta in late 2018.

PREPPING FOR E-PERMITTING: LEARNING TO REVIEW PLANS ELECTRONICALLY

Evolve wasn’t ready to go live with clients when Middlesex Centre signed on, but that worked out well for the building department. When building departments go paperless, inspectors and plans reviewers must learn to mark up drawings on the computer instead of on paper. Arnie bought Bluebeam Revu licenses for his team and asked some builders to submit drawings electronically. The team mastered electronic reviews and markups while Evolve was in development.

Arnie gives credit to his team for adapting to reviewing drawings electronically, saying, “They were excellent. They were very excited and there was no resistance to learning something new.”

JUMPING IN WITH TWO FEET: GOING LIVE WITH EVOLVE

Before launching, Arnie, his team and the City of Windsor's building department did user acceptance testing to gather user feedback for two months. When he was asked why they did this testing, Arnie said, "We could help make the Evolve system what we thought was best. Our team is very ambitious, and we liked the opportunity to play a role in that."

Evolve went live in Middlesex Centre in August while Arnie was on vacation — his team said they could handle the transition without him, and they did. They introduced all their builders to the system to test it out and get rid of paper. A month later, they opened online applications to everyone. And, in November, the Middlesex Centre website was updated with everything residents needed to know about applying online for building permits.

It's still a work in progress. Arnie's team meets with Evolta weekly to go over what's working and what's not and to make suggestions for improvement. Within three weeks, they see improvements based on their feedback. Middlesex Centre could've taken a slower approach, but they jumped in with two feet to learn in a live environment. "We want to make it better in a live environment rather than waiting for it to be perfected before it's used," Arnie said.

Arnie and his team look forward to the inspection module coming out in early 2020. This will allow builders to schedule inspections in Evolve rather than calling or emailing the building department.

Middlesex Centre Building Department (left to right): Ben Hartman, Building Inspector; Wayne Ysebaert, Deputy Chief Building Official; Arnie Marsman, Director, Building Services and Chief Building Official.



LESSONS FROM THE MIDDLESEX CENTRE E-PERMITTING IMPLEMENTATION

Arnie wants other municipalities and chief building officials to benefit from his team's experience implementing e-permitting.

Here are Arnie's tips:

- Help your council understand the benefits of an out-of-the-box software solution for e-permitting with a clear staff report that outlines the background, benefits, financial implications and how it fits into your municipality's strategic plan.
- Don't be afraid of the new technology; it's affordable, especially compared to other software options.
- Don't ask your team to learn two applications at once. Learn to review drawings electronically first, then learn the e-permitting solution.
- Think of the results: no more paper storage, the benefit to your customer, the accessibility of all plans and other building permit documentation in the field and the office.

By implementing a user-friendly e-permitting solution, the building department is helping Middlesex Centre achieve its strategic objectives related to community planning, economic development and operational excellence. And it's giving Arnie, Wayne and Ben each the joy of a clear desk. ■

Andrea Bassett is an executive ghostwriter who helps executives get their big ideas out of their heads and into the world. Connect with Andrea on LinkedIn at www.linkedin.com/in/andreabassett.



Innovation in Middlesex: The 2018 E.A. Danby Award.