

Of texts, and pretexts



JOHN BARBER
MARCH 7, 2009

The Decision: Why Wal-Mart is Good/Bad

By James R. McKenzie

and Order of the Board

OMB, 55 pages, \$0

Print Edition - Section Front



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The non-specialist reader might well decide to throw this glutinous clot of a text against the wall after reading no more than four lines, which introduce two wealthy protagonists who "are desirous of redeveloping" a property that is "physically situated" in downtown Toronto. Should they resist the immediate impulse, author McKenzie goads them again in every tortured page of his puzzling text, a pretzel-logic "judgment" in the famous case of Wal-Mart v. Toronto.

The decision in the title refers to the culmination of a five-year process during which a developer, Smart Centres Inc., sought to build a shopping mall whose anchor tenant was widely rumoured to be Wal-Mart in the gentrifying Toronto neighbourhood of Leslieville, against the wishes of local politicians and residents.

Most readers will skip straight to the ending, as widely reported this week, in which Ontario Municipal Board vice-chair James McKenzie surprisingly sends the developer packing. But those who struggle through the preceding tickets will be rewarded.

Read as a tragicomic fiction of one honest man's hapless descent into the madness of the Toronto planning exercise, with the author posing in the classic postmodern guise of reluctant narrator, *The Decision* becomes something quite different: an indictment of oppressive social institutions, culminating with a whiz-bang surprise ending.

In the pages of *The Decision*, Nabokov's Charles Kinbote, alleged citizen of Zembla ("a distant northern land"), meets Kafkaesque arthropod Gregor Samsa in a bravura display of what John Barth so aptly labelled "the Literature of Exhaustion." Not highly readable, as it were. You could, in fact, put it down.

In Mr. McKenzie's hands, the narrator becomes an underpaid, mid-level functionary in a vast bureaucracy. The OMB is called by unaccountable fate to judge the proper height of fences. Somehow - we are not told how - it comes to sit in judgment of shopping centres.

Just as Kafka pointedly avoided saying how or why Gregor Samsa became a cockroach overnight, thus emphasizing the simple, unavoidable "fact" that it happened - shocking readers with a plain demonstration of merciless fate - Mr. McKenzie is not required to explain the Ontario Municipal Board. It just is. Context established, the narrator delves into a thicket of technical obscurities that purport to address the straightforward question of whether or not the City of Toronto, by unanimous votes of its elected council, has the right to protect designated employment lands from "retail contagion," i.e., Wal-Mart.

But appearances deceive: The persevering reader gradually comes to realize that these deep and fuzzy forays into old studies, policies and Acts threaten to disguise the narrator's views of the actions of Councillor Paula Fletcher (who, like all the leading characters of *The Decision*,

remains unnamed in its pages).

The narrator becomes almost obvious, even brazen as he moves from one obscurity to another, the only pattern being his fulsome approval of most evidence uttered by Wal-Mart's hired guns and his disapproval of the citizens and politicians who dared to uphold established city policy before his tin-pot tribunal.

Opposition is "knee-jerk reaction." Unanimous votes at council are "political whims" that insult the delusional functionary's absurdist dignity. Where normal people might see local politicians doing their jobs, *The Decision's* Kinbote sees "*ex-poste* [sic] rationalization" of sinister conspiracies.

Just at the height of his tirade, within sight of the final paragraphs, the narrator abruptly shifts attention to a novel sub-clause no combatant had previously emphasized. In a final burst of energy, he loads little Policy 9.18 (b) into his sling and nails the big-box giant between the eyes.

This sudden switcheroo goes to the heart of the puzzle. One interpretation suggests that the narrator is lashing out as he reluctantly rules against Wal-Mart, despite his thoughts to the contrary. Another is that his mind suddenly became focused - as they say the gallows focuses the mind - after years of assault by paper policies. By the time the full meaning of the surprise ending becomes clear, you can almost hear the sound of Ms. Fletcher laughing.

jbarber@globeandmail.com

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Phillip Crawley, Publisher

**GET THE BEST FOR LESS
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A boost for Leslieville, and all of us

March 06, 2009

CHRISTOPHER HUME

We live in a world where people are shocked when someone does the right thing.

Torontonians were reminded of this on Wednesday, when the much-reviled Ontario Municipal Board ruled against a Wal-Mart-anchored shopping centre on Eastern Ave. west of Leslie St.

The announcement clearly took everyone by surprise; most observers thought it a foregone conclusion the OMB would approve the development.

Though the board was highly critical of the city, it ultimately affirmed council's right to decide how growth should occur.

Several years ago, councillors designated the site an employment zone. That didn't stop developer and part-owner SmartCentres from proposing a big-box mall with parking for 1,700 cars.

Though it would have looked more urban than the standard suburban model, a shopping centre of any kind wasn't what the city had in mind.

Naturally, the neighbours, local councillor Paula Fletcher and Mayor David Miller were ecstatic. All of them had expected to lose at the tribunal and barely knew what to say. Although the response was pure NIMBYism, this time the truth was on their side.

Internationally respected Toronto planner Ken Greenberg was as taken aback as anyone.

"I did not expect this outcome," he said frankly. "But I'm very pleased. It was an important case. A ruling in favour of the project would have seriously and grievously undermined the neighbourhood and the city. The city had fallen into a syndrome where it automatically expected to be overruled by the OMB."

And for understandable if not always good reasons. One need look no further than the Queen West Triangle, where the OMB shut down city planners several years ago. Admittedly, the city dropped the ball that time, but that's a poor excuse for putting large chunks of Toronto into developers' pockets.

The question now is what should become of the 7-hectare site on Eastern Ave.

The answer may be neither a "power centre" nor an employment district, but both.

As great as the need for jobs may be, the appropriate model for urban growth in the 21st century is mixed use. That includes residential and retail as well as employment. Except for heavy industry and the like, anything goes, or should.

By virtue of its location, Leslieville, an established inner-city neighbourhood on the way up, has

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enormous potential; ultimately it could be connected to the revitalized waterfront and the new park system now being installed there. Although the city allowed Lake Shore Blvd. E. to be turned into a dismal shopping strip with the usual big-box suspects, such as Canadian Tire, all is not lost.

"The SmartCentres site should be a continuation of the neighbourhood," Greenberg argues. "Leslieville could be extended all the way down to the Portlands."

Even if that were to happen, it wouldn't be for years, probably decades. But given today's economic climate that might be for the best. Even if the OMB had said yes, there's little need in Toronto for another Wal-Mart, let alone another shopping centre.

In this way, the Great Recession, for all the pain it will cause, could turn out to be a boon for the city. Seven hectares of vacant land aren't generally available in an urban setting. Even in a city with a wasteland for a waterfront, such an opportunity is not to be squandered. Close to downtown and the lake, Leslieville will become ever more desirable. For this, we have the OMB to thank. It may be a case of the right decision being made by the wrong agency, but that's another discussion.

In the meantime, crisis has been averted. The cheers are loudest in Leslieville, but this is one the whole city can celebrate.

Christopher Hume can be reached at chume@thestar.ca

FINANCIAL POST

Thursday, March 5, 2009

Omb Rejects Big-Box Centre In Leslieville

Project seen as undermining city's goal of job creation

Allison Hanes And Peter Kuitenbrouwer, **National Post**

Presented by



In a stunning and long-awaited ruling, the Ontario Municipal Board yesterday rejected a developer's plan to build big-box shopping plaza in Leslieville.

The decision said the Smart!Centres project had some "attributes," but accepted that allowing one big-box project would spread retail "contagion" and undermine the city's intended goal of attracting strategic job-creating industries to its designated employment lands.

"We're thrilled. We also know there probably will be appeals, but at this moment we're pretty excited," said Kelly Carmichael, chair of the East Toronto Community Coalition, which ran a sophisticated campaign against the development.

Smart!Centres seemed to raise the white flag in its bid to transform the former film studios site on Eastern Avenue into a retail complex, likely including a Wal-Mart, saying in a statement: "All the voices have been heard, and we lost. While disappointed, we respect the process and the decision of the Board." It added that it has "no immediate plans for other development or use of the property and will assess all available options to us."

Interestingly, the OMB, while agreeing large-surface retail would "destabilize" the neighbourhood, also slammed the city's land-use planning as "knee-jerk" rather than "reasoned."

"This board is not in the business of rescuing what it finds is deficient planning by giving its benediction to other planning it finds even more wanting," the decision stated.

Nevertheless Councillor Paula Fletcher (Toronto Danforth), who represents the ward, said the decision will help preserve a vibrant future of the neighbourhood.

"I was pretty excited, but just extremely happy, just for the long-term employment lands, because I think they've been under incursion and attack for a long time in the city," she said. "There's a lot of pressure, whenever there's a plot of land that you can put something on. So these are lands that are set aside for job-related function and the fact that the OMB upheld that I think is exciting for everybody in Toronto."

The land at 629 Eastern Ave. originally housed the Toronto Ironworks foundry. When the foundry closed, Sam Reisman of the Rose Corporation bought the facility and transformed it into Toronto Film Studios, which became a favourite of many directors, including David Cronenberg, who filmed his *History of Violence* in the complex.

The influx of film business helped transform Leslieville from a blue-collar neighbourhood of dirty industrial jobs into a destination, filled with nice restaurants and cafes. Locals in Leslieville became accustomed to the well-paid, clean film industry jobs.

But in 2006, when Rose Corp. began building its new Filmport studios on city land in the Toronto Port, it sold half of the 19.5-acre site at 629 Eastern to Smart!Centres, Canada's largest shopping centre developer, for \$14-million.

Smart!Centres announced plans to build a 700,000 square-foot retail complex at the site with parking for 2,000 cars. Smart!Centres normally brings in Wal-Mart as its anchor tenant. The neighbourhood rose up in protest, warning of heavy traffic and protesting the minimum-wage, part-time jobs that the big-box centre would bring.

The city turned down the Smart!Centres rezoning application, so the company appealed to the Ontario Municipal Board. Locals flooded the OMB hearing room when it began last May.

Smart!Centres argued that it would bring in 2,000 jobs, each paying about \$20,000 a year.

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OMB quashes plan for Leslieville mega mall

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JEFF GRAY
FROM THURSDAY'S GLOBE AND MAIL
MARCH 5, 2009 AT 5:42 AM EDT

A contentious plan for a shopping centre in Leslieville - derided as a suburban-style "big box" with Wal-Mart as a likely tenant - has been quashed by the province's planning tribunal, after a five-year fight by local councillors and residents.

The Ontario Municipal Board, often accused by critics of favouring developers, sided with the city and struck down an application to convert the Toronto Film Studios site on Eastern Avenue between Carlaw Avenue and Leslie Street into a 600,000 square-foot retail complex with 1,800 parking spaces.

Objections to the plan, outlined at hearings last year, included fears of increased car traffic, the effect of a mega-mall on local small businesses and the low-wage jobs critics said the development would create.

But the OMB's 56-page ruling rests only on its finding that the city's official plan had designated the area as industrial or employment lands, disallowing substantial retail as it could "destabilize" the area as more retail flooded in, land values increased and other employment uses were crowded out.

Moreover, in his ruling, dated Mar. 3, OMB vice-chairman James McKenzie also slammed moves by city officials and local city Councillor Paula Fletcher to try to kill the development, striking down planning amendments he called "knee-jerk" reactions passed on a "political whim."

In the current economic climate, it looks likely that instead of a new shopping centre that proponents said would create close to 2,000 jobs, very little will be happening on the lands, now largely vacant after Toronto Film Studios moved to a new location to the south.

Still, Ms. Fletcher and Mayor David Miller praised the decision as a major victory, arguing that once the economy recovers, better-paying jobs will be created on the site, such as those in the film industry, which the city believes is a key sector in the new "creative" economy of the future.

"It's not just a win. It's a big win," Ms. Fletcher said, calling it a "thoughtful, measured decision."

Vaughan, Ont.-based SmartCentres said in an e-mail statement that it was considering its options: "All the voices have been heard, and we lost. While disappointed, we respect the process and the decision of the board. At this time, we have no immediate plans for other development or use of the property and will assess all available options to us."

Kelly Carmichael of the East Toronto Community Coalition, which fought vehemently against the SmartCentres plan, said she was "thrilled" with the decision.

"It's just great. It feels like democracy won today," she said. "Now we have an opportunity to work with the city, and hopefully create a vision [for the property], rather than having to be behind the eight ball all the time."

Victoria Dinnick, owner of Gadabout, a vintage clothing store on Queen Street East, praised the decision and said the development would have hurt Leslieville's eclectic small-business strip.

"I think it would have killed the incentive for other businesses to move in," she said. "We already have three big boxes. If you put one more in there, what you're going to see is what you've seen in the United States, where it turns into a shopping wasteland."

With a report

from Josh Wingrove

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Small Business

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OMB rejects big-box plans in Leslieville

March 05, 2009

DONOVAN VINCENT
CITY HALL BUREAU

Plans for a \$220 million retail "power centre" south of Eastern Ave. in Leslieville have been turned down by the Ontario Municipal Board, a decision that has city officials celebrating.

"This is a total victory for the city of Toronto," city lawyer Brendan O'Callaghan said yesterday.

"It's not every day that we're that happy with an OMB decision," exulted Paula Fletcher, the councillor for the area.

In a 55-page ruling, OMB vice-chair James McKenzie sided with the city's experts, who in effect said the SmartCentres/Toronto Film Studio application didn't constitute good land use planning and would probably "destabilize" the designated employment district south of Eastern Ave.

Professional planning consultants and real estate advisers the city hired as experts had warned the OMB hearing that the application risked causing "retail contagion" in the area. Allowing the large centre would make it easier for subsequent retail applicants to get a foothold, argued real estate expert Jeffery Climans.

This would rapidly bid up the market value of the industrial and commercial properties in the district, leading to lease terminations and limiting the ability of existing businesses to renew their leases, Climans said. That would result in a general disruption of the area's business fabric.

The employment area in question is bounded by Eastern to the north, Woodfield Rd. to the east, Lake Shore Blvd. E. to the south, and the Don River to the west. It comprises about 135 hectares.

The property the partners wanted to develop falls within the area – a 7-hectare rectangle just west of Leslie St.

At the beginning of the hearing last year, the buildings on the property were in the final days of being used by Toronto Film Studios. By the end of the hearing, TFS was moving to the newly opened Filmport studio, in the portlands.

SmartCentres wanted to develop a multi-level retail, service, commercial, office and entertainment complex on the property covering nearly 700,000 square feet.

The plan called for retail stores of various sizes, possibly including two large-scale units of up to 180,000 square feet.

Parking was set aside for more than 1,700 vehicles, hidden from the street and nearby homes.

Though no anchor tenant was identified, Wal-Mart, a SmartCentres staple, was widely rumoured to be a top choice

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In June 2004, TFS filed an application with the city to rezone the property for redevelopment. SmartCentres later joined in. The hearing was told a title search revealed SmartCentres paid \$14 million for a 50 per cent interest in the property.

The city rejected the landowners' rezoning bid, arguing among other things that a huge retail complex would threaten the larger employment zone. This set the stage for the OMB showdown.

The city wanted the land set aside for "creative industry" jobs like those in film or media. SmartCentres argued the redevelopment would bring about 2,000 permanent retail jobs.

The retail plan divided the Leslieville community. Some welcomed the idea of a Wal-Mart and other inexpensive stores, while others fought the application vociferously through a campaign led by the East Toronto Community Coalition.

Coalition member Charles Braive, a film production manager, said he's delighted with the decision and hopes the property will be used for future film, audio, animation or computer design projects.

Despite a large drop-off, he said, television production is picking up, and he predicts film production will, too.

Mayor David Miller also praised the decision in a statement yesterday. "Preserving and protecting employment lands is an important part of Toronto's Official Plan," he said. "This decision recognizes that position, and strengthens our ability to ensure Toronto can prosper now and in the future."

SmartCentres spokesperson Sandra Kaiser issued a written statement:

"All the voices have been heard, and we lost," it said. "While disappointed, we respect the process and the decision of the (OMB).

"At this time, we have no immediate plans for other development or use of the property and will assess all available options to us," the statement said.

With files from Vanessa Lu