

December 15, 2011

Our File No.: 08.2317

Sent Via Courier and Via E-mail

Ministry of Municipal Affairs & Housing
Municipal Services Office – Central Ontario
777 Bay Street, 2nd Floor
Toronto, ON M5G 2E5

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MUNICIPAL SERVICES OFFICE

DEC 15 2011

CENTRAL REGION
MINISTRY OF MUNICIPAL AFFAIRS
AND HOUSING

Attention: Andrew Doersam, Senior Planner

Dear Mr. Doersam:

**Re: Amendment No. 38 to the Regional Municipality of Halton Official Plan (“ROPA 38”);
Notice of Decision dated November 24, 2011 (MMAH File No. 24-OP-0027-038);
Notice of Appeal pursuant to Section 17(36) of the Planning Act by Milton Phase 3 Landowners Group Inc.**

We are solicitors for Milton Phase 3 Landowners Group Inc. (also known as the Milton Boyne Survey Landowners Group). On behalf of our client, we hereby appeal the above-noted Decision of the Minister in respect of ROPA 38 to the Ontario Municipal Board. This Notice of Appeal applies to the entirety of ROPA 38, as approved with modifications by the Minister.

Our client (hereinafter the “MP3 Landowners”) represents a group of landowners within the Boyne Survey Secondary Plan area with respect to financial, cost sharing and development-related matters. These landowners own approximately 750 hectares (1,850 acres) of land, comprising approximately 70% of the Boyne Survey Secondary Plan Area. The Secondary Plan area is bounded by Louis St. Laurent Avenue to the north, James Snow Parkway to the east, Britannia Road to the south and Tremaine Road to the west, and has been part of Milton’s urban area since the introduction of the Halton Urban Structure Plan.

Our client provided comments to the Region of Halton during the processing of ROPA 38, including comments set forth in a letter from us dated July 7, 2009, and comments set forth in a letter from Glen Schnarr & Associates Inc. (“GSAI”) dated November 12, 2009.

The main concern of the MP3 Landowners with ROPA 38 is the new NHS (Natural Heritage System) policies. In its letter to the Region of November 12, 2009, GSAI suggested that ROPA 38 should contain a Boyne-specific NHS clause whereby the Natural Heritage System for the Boyne Survey Secondary Plan area would be defined through the Town’s Secondary Plan

process. A number of reasons were given for this, including the fact that the Boyne Survey Secondary Plan process and the related Subwatershed Study update were initiated prior to the initiation of the Region's SHP Natural Heritage System enhancement process.

Subsequent to GSAI's request for a Boyne-specific NHS clause in ROPA 38, the Town of Milton adopted the Boyne Survey Secondary Plan on June 14, 2010. The Preamble to the Plan sets forth the Town's understanding that ROPA 38 is not applicable to the Secondary Plan: "An updated growth management strategy has recently been adopted by the Region through the Sustainable Halton process (Regional Official Plan Amendment No. 38 – ROPA 38); however, it has not been finally approved and is not applicable to this Plan."

ROPA 38, as adopted by the Region and as approved by the Province with modifications, does not contain a Boyne specific NHS clause as was requested by GSAI. It also does not contain a policy that confirms the Town of Milton's understanding that ROPA 38 is not applicable to the Boyne Survey Secondary Plan. As well, ROPA 38 identifies Key Features on Map 1F that are not designated as part of the Greenlands/Natural Heritage System identified in the Boyne Survey Secondary Plan adopted by the Town. While Section 116.1 of the Region's Official Plan, as amended by ROPA 38, provides for the updating of, and refinements to the boundaries of, the Region's Natural Heritage System, the extent to which such updates and/or refinements would be permitted in the Boyne Survey Secondary Plan area is not clear.

The MP3 Landowners and their NHS consultants are having continuing discussions with the Town of Milton and its NHS consultants as to the definition of, and implementation of, an appropriate NHS framework for the Boyne Survey Secondary Plan area. The concerns of the MP3 Landowners with the new NHS policies introduced by ROPA 38 may be resolved or narrowed by the Region's approval of the Boyne Survey Secondary Plan and the NHS policies contained therein. However, at this time, in advance of the approval of the Boyne Survey Secondary Plan, the MP3 Landowners believe that they must appeal the NHS policies of ROPA 38 (including, without limitation, the amendments to Sections 113 to 132 inclusive of the Region's Official Plan [Items 232 to 266 of ROPA 38 and MMAH modifications 90 to 103]; the amendments to the Definitions used in the NHS policies [part of Items 562 to 616 of ROPA 38 and MMAH modifications 126 to 156]; and the amendments to the Maps affecting the NHS policies, including Maps 1 and 1F [Items 620 and 621 of ROPA 38 and MMAH modifications 159 and 163], on the basis that the ROPA 38 NHS policies are too restrictive and go further than is necessary or appropriate to address Provincial policies with respect to natural heritage matters.

In addition to the NHS policies of ROPA 38, the MP3 Landowners continue to have concerns with the provision in ROPA 38 which introduces, by way of an amendment to Section 143(9) of the Region's Official Plan, a requirement for air quality studies for development within 1,000 metres of a rail yard. As set forth in GSAI's letter of November 12, 2009, any such policy needs to set forth an acceptable terms of reference and/or scope of work for the required air quality study.

The MP3 Landowners also continue to have concerns with the amendments to Map 4 -- Right-of-Way Requirements for Arterial Roads (Item 620 of ROPA 38). In particular, the MP3 Landowners are concerned with the increased 47 metre right-of-way being shown for Tremaine Road between Main Street and Britannia Road. As set forth in our letter to the Region dated May 16, 2011, it is the opinion of the MP3 Landowners and their consultants that the widening of Tremaine from Main to Britannia can be accommodated within a 35 metre right-of-way. It is also inappropriate to establish a 47 metre right-of-way for Tremaine, in the Region's Official Plan, in advance of an approved Environmental Assessment.

The MP3 Landowners are also concerned with MMAH modification 22, which appears to require, through amendments to Section 77(5) of the Region's Official Plan, the application of Minimum Distance Separation (MDS) formulae within Urban Areas. MDS formulae should not be applied within Urban Areas generally, and certainly should not be applied to HUSP lands such as the Boyne Survey Secondary Plan area.

For the above-noted reasons, and more detailed reasons that will be advanced at the hearing of this appeal, our client hereby appeals ROPA 38 as modified by the Minister, in its entirety, to the Ontario Municipal Board.

The MP3 Landowners and their advisors are continuing to review the details of ROPA 38 and the Minister's Decision. While this appeal applies to all of ROPA 38, we anticipate being in a position to scope the appeal in due course.

Please find enclosed a completed Appellant Form (A1), as well as a cheque made payable to the Minister of Finance in the order of \$125.00 for the applicable appeal fee. If there is anything else that you require, please do not hesitate to contact the undersigned.

Please acknowledge receipt of this appeal.

Yours very truly,

Goodmans LLP

Original signed by

Mark Noskiewicz

MRN/dl

Encl.

cc: Carmela Liggio
Colin Chung



Environment and Land Tribunals Ontario
Ontario Municipal Board
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 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

**SUBMIT COMPLETED FORM
 TO MUNICIPALITY/APPROVAL AUTHORITY**

Date Stamp - Appeal Received by Municipality

Receipt Number (OMB Office Use Only)

Part 1: Appeal Type (Please check only one box)

SUBJECT OF APPEAL	TYPE OF APPEAL	PLANNING ACT REFERENCE (SECTION)
Minor Variance	<input type="checkbox"/> Appeal a decision	45(12)
	<input type="checkbox"/> Appeal a decision	53(19)
Consent/Severance	<input type="checkbox"/> Appeal conditions imposed	53(27)
	<input type="checkbox"/> Appeal changed conditions	53(14)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	34(19)
	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(11)
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	38(4)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	17(24) or 17(36)
Official Plan or Official Plan Amendment	<input checked="" type="checkbox"/> Appeal a decision	17(40)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	22(7)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	51(39)
	<input type="checkbox"/> Application for an amendment to the Official Plan – refused by the municipality	
Plan of Subdivision	<input type="checkbox"/> Appeal a decision	51(43) or 51(48)
	<input type="checkbox"/> Appeal conditions imposed	51(34)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	

Part 2: Location Information

Boyne Survey Secondary Plan Area (lands bounded by Louis St. Laurent Avenue, James Snow Parkway, Britannia Road, Address and/or Legal Description of property subject to the appeal: Termaine Road)

Municipality/Upper tier: Town of Milton

Part 3: Appellant Information

First Name: _____ Last Name: _____

Milton Phase 3 Landowners Group Inc. (c/o Carmela Liggio, Delta Urban Inc.)
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): _____

E-mail Address: carmela@deltaurban.com
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 905-660-7667 ext. 232 Alternate Telephone #: _____

Fax #: 905-660-7076

Mailing Address: 8800 Dufferin Street Suite 104 Vaughan
Street Address Apt/Suite/Unit# City/Town
Ontario L4K OC5
Province Country (if not Canada) Postal Code

Signature of Appellant: _____ Date: _____
(Signature not required if the appeal is submitted by a law office.)

Please note: You must notify the Ontario Municipal Board of any change of address or telephone number in writing. Please quote your OMB Reference Number(s) after they have been assigned.

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

Part 4: Representative Information (if applicable)

I hereby authorize the named company and/or individual(s) to represent me:

First Name: Mark Last Name: Noskiewicz

Company Name: Goodmans LLP

Professional Title: Solicitor

E-mail Address: mnoskiewicz@goodmans.ca
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: 416-597-4136 Alternate Telephone #: _____

Fax #: 416-979-1234

Mailing Address: 333 Bay Street Suite 3400 Toronto
Street Address Apt/Suite/Unit# City/Town
Ontario M5H 2S7
Province Country (if not Canada) Postal Code

Signature of Appellant: Original signed by Date: Dec 14, 2011
(Goodmans LLP)

Please note: If you are representing the appellant and are NOT a solicitor, please confirm that you have written authorization, as required by the Board's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

Part 5: Language and Accessibility

Please choose preferred language: English French

We are committed to providing services as set out in the *Accessibility for Ontarians with Disabilities Act, 2005*. If you have any accessibility needs, please contact our Accessibility Coordinator as soon as possible.

Part 6: Appeal Specific Information

- 1. Provide specific information about what you are appealing. For example: Municipal File Number(s), By-law Number(s), Official Plan Number(s) or Subdivision Number(s):

(Please print)

Amendment No. 38 to the Regional Municipality of Halton Official Plan (ROPA 38) - MMAH File No. 24-OP-0027-038

- 2. Outline the nature of your appeal and the reasons for your appeal. Be specific and provide land-use planning reasons (for example: the specific provisions, sections and/or policies of the Official Plan or By-law which are the subject of your appeal - if applicable). **If more space is required, please continue in Part 9 or attach a separate page.

(Please print)

See the attached letter.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

a) DATE APPLICATION SUBMITTED TO MUNICIPALITY: _____
(If application submitted before January 1, 2007 please use the O1 'pre-Bill 51' form.)

b) Provide a brief explanatory note regarding the proposal, which includes the existing zoning category, desired zoning category, the purpose of the desired zoning by-law change, and a description of the lands under appeal:
**If more space is required, please continue in Part 9 or attach a separate page.

[Empty box for explanatory note]

Part 7: Related Matters (if known)

Are there other appeals not yet filed with the Municipality? YES NO

Are there other planning matters related to this appeal? YES NO

(For example: A consent application connected to a variance application)

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s) in the box below:

(Please print)

[Empty box for OMB Reference Number(s) and/or Municipal File Number(s)]

