



D U N P A R  
BETTER BY DESIGN

DELIVERED VIA EMAIL: [graham.milne@halton.ca](mailto:graham.milne@halton.ca)

July 4, 2022

Mr. Graham Milne, Clerk  
The Regional Municipality of Halton  
1151 Bronte Road, Oakville  
Ontario L6M 3L1

**RE: NOTICE OF APPEAL UNDER SECTION 14 OF THE *DEVELOPMENT CHARGES ACT*,  
1997, S.O. 1997, C. 27 (THE “*DEVELOPMENT CHARGES ACT*”)**

**DEVELOPMENT CHARGE BY-LAW NO. 25-2268 (THE “BY-LAW”)**

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We are counsel for Dunpar Homes, the owner of the lands municipally known as 1024-1042 Sixth Line, Oakville. On behalf of Dunpar Homes, we are hereby appealing the decision of the Council of Regional Municipality of Halton (the “**Region**”) to adopt the By-law to the Ontario Land Tribunal (the “**OLT**”), pursuant to section 14 of the *Development Charges Act*.

Dunpar Homes is an infill builder that – among other things – specializes in the construction of thoughtfully designed townhouses and condominium communities. Dunpar Homes firmly believes that every community is built on the fundamentals of sound, sustainable living with easy access to shopping, schools, parks, highways, recreation centers, and natural greenspace. In that regard, Dunpar Homes shares the opinion of the Regional Council that the future of growth within the Region should be directed towards the Delineated Built-up Area of the Region (the “**DBUA**”), protecting both the environment and the reasonable expectations of existing and future residents.

While the Region wants to encourage the development of the DBUA, the proposed development charge increases for environmentally friendly, infill development, however, will have the opposite effect due to their demonstrable impact upon the feasibility of existing and future projects. It is for that reason that Dunpar Homes objects to the By-law’s imposition of development charges that are too high and were not calculated in a manner that was fair, reasonable, and in compliance with the requirements of the *Development Charges Act* and the regulations thereunder, as follows:

1. The By-law does not conform to the applicable policies of a Place to Grow: Growth Plan for the Greater Golden Horseshoe (the “**Growth Plan**”) because the excessive charges imposed upon development will discourage the optimal intensification within the DBUA;
2. The By-law does not conform to the applicable land need assessment methodologies of the Growth Plan because – among other things – the Best Planning Estimates 2011 are out-of-date, unreliable, and fail to consider the economic impacts of Covid-19;

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3. Similarly, the By-law is consistent and is not in conformity with the applicable policies of the Provincial Policy Statement, 2020 and the Regional Official Plan, as the case may be;
4. The Level of Service calculations for the General Services, Roads, and Special Urban Charges are unreasonable. In particular, the level of service calculation for Roads based on "road length per capita" is unreasonable, unfair, and encourages undesirable sprawl;
5. Moreover, the Region has not completed a Transportation Master Plan for over 10-years, so the historical data that the level of service for Roads is inaccurate, and the volume to capacity analysis in the Background Study is inaccurate, unreliable, and misleading;
6. The Background Study uses a 10-year planning period which underestimates the post period benefit for General Services, Roads, and Special Urban Charges. In particular, the Roads category allocates less than 10% of its costs to post period benefit, despite the anticipation of substantial greenfield development after the 2031 planning period;
7. The Background Study fails to accurately estimate the benefit to existing development, especially, for example, with regards to the Grade Separations shown in Figure D-1; and,
8. The scope of the General Services, Roads, and Special Urban Charges projects are not well defined, are insufficiently costed, are improperly justified, and ineligible;

For the above reasons, and for additional reasons that may be raised before the hearing of this appeal, Dunpar Homes hereby appeals the By-law to the OLT.

In support of the appeal, we are enclosing a completed A1 Form. Please do not hesitate to contact the undersigned about the contents of this correspondence.

Sincerely,  
Dunpar Homes

Luke Johnston

Executive Vice President of  
Development and General Counsel

Michael Nemanic

Legal Counsel and  
Development Management



## Ontario Land Tribunal

655 Bay Street, Suite 1500, Toronto, ON M5G 1E5  
Tel: 416-212-6349 | 1-866-448-2248  
Web Site: olt.gov.on.ca

## Appeal Form (A1)

<b>Municipal/Approval Authority Date Stamp</b>	<b>Receipt Number (OLT Office Use Only)</b>	<b>Date Stamp – Appeal Received by OLT</b>
	<b>OLT Case Number (OLT Office Use Only)</b>	

Please complete this Appeal Form by following the instructions in the companion document titled “Appeal Form Instructions”. Please read **both** documents carefully to ensure you submit the correct information and complete this form correctly.

There are guides available for review on the Tribunal’s [website](#) for different appeal types to assist you in filing an appeal.

**Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal) prior to completing this Appeal Form. Relevant portions of the applicable legislation should also be reviewed before submitting this form. Your appeal must be filed with the appropriate authority within the appeal period as set out in the notice of the decision and applicable legislation.**

### Section 1 – Contact Information (Mandatory)

Applicant/Appellant/Objector/Claimant Information			
Last Name:		First Name:	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Dunpar Homes			
Email Address:			
<a href="mailto:m.nemanic@dunpar.ca">m.nemanic@dunpar.ca</a> / <a href="mailto:l.johnston@dunpar.ca">l.johnston@dunpar.ca</a>			
Daytime Telephone Number:		Alternative Telephone Number:	
613.601.4639 / 416.236.9800 x 256	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
	105	Six Point Road	

City/Town:	Province:	Country:	Postal Code:
Toronto	Ontario	Canada	M8Z 2X3

Representative Information			
<input checked="" type="checkbox"/> I hereby authorize the named company and/or individual(s) to represent me			
Last Name:		First Name:	
Nemanic / Johnston		Michael / Luke	
Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation):			
Email Address:			
m.nemanic@dunpar.ca / l.johnston@dunpar.ca			
Daytime Telephone Number:		Alternative Telephone Number:	
613.601.4639 / 416.236.9800 x 256	ext.		
Mailing Address			
Unit Number:	Street Number:	Street Name:	P.O. Box:
	105	Six Point Road	
City/Town:	Province:	Country:	Postal Code:
Toronto	Ontario	Canada	M8Z 2X3
<p><b>Note:</b> If your representative is not licensed under the <i>Law Society Act</i>, please confirm that they have your written authorization, as required by the <i>OLT Rules of Practice and Procedure</i>, to act on your behalf and that they are also exempt under the Law Society's by-laws to provide legal services. Please confirm this by checking the box below.</p>			
<p><input type="checkbox"/> I certify that I understand that my representative is not licensed under the <i>Law Society Act</i> and I have provided my written authorization to my representative to act on my behalf with respect to this matter. I understand that my representative may be asked to produce this authorization at any time along with confirmation of their exemption under the Law Society's by-laws to provide legal services.</p>			

Location Information
Are you the current owner of the subject property? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Address and/or Legal Description of property subject to the appeal:
1024-1042 Sixth Line, Oakville and other properties
Municipality:
N/A
Upper Tier (Example: county, district, region):
The Regional Municipality of Halton

Language Requirements
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Do you require services in French?

Yes

No

To file an appeal, please complete the section below. Complete one line for each appeal type

Subject of Appeal		Type of Appeal (Act/Legislation Name)	Reference (Section Number)
Example	Minor Variance	<i>Planning Act</i>	45(12)
1	Passage Development Charges By-law	<i>Development Charges Act</i>	14
2			
3			
4			
5			

**Section 2 – Appeal Type (Mandatory)**

Please select the applicable type of matter

Select	Legislation associated with your matter	Complete Only the Section(s) Below
<input type="checkbox"/>	Appeal of <i>Planning Act</i> matters for Official Plans and amendments, Zoning By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances	3A
<input checked="" type="checkbox"/>	Appeal of <i>Development Charges Act, Education Act, Aggregate Resources Act, Municipal Act</i> matters	3A
<input type="checkbox"/>	Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
<input type="checkbox"/>	Appeal of <i>Planning Act</i> (subsections 33(4), 33(10), 33(15), 36(3)), <i>Municipal Act</i> (subsection 223(4)), <i>City of Toronto Act</i> (subsection 129(4)) and <i>Ontario Heritage Act</i> (subsections 34.1(1), 42(6)) matters	3A & 3B
<input type="checkbox"/>	Appeal of <i>Clean Water Act, Environmental Protection Act, Nutrient Management Act, Ontario Water Resources Act, Pesticides Act, Resource Recovery and Circular Economy Act, Safe Drinking Water Act, Toxics Reduction Act, and Waste Diversion Transition Act</i> matters	4A
<input type="checkbox"/>	Application for Leave to Appeal under the <i>Environmental Bill of Rights, 1993</i>	4B
<input type="checkbox"/>	Appeal under the <i>Niagara Escarpment Planning and Development Act (NEPDA)</i>	5
<input type="checkbox"/>	Appeal of <i>Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act</i> matters	6

<input type="checkbox"/>	Legislation not listed above	Contact OLT before filing your appeal
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**Section 3A – Planning Matters**

**Appeal Reasons and Specific Information**

Number of new residential units proposed:

N/A

Municipal Reference Number(s):

N/A

List the reasons for your appeal:

Please see the enclosed correspondence on behalf of Dunpar Homes, dated July 4, 2022.

Has a public meeting been held by the municipality?       Yes     No

For appeals of Official Plans, Official Plan Amendments, Zoning By-laws and Zoning By-law Amendments, please indicate if you will rely on one or more of the following grounds:

A: A decision of a Council or Approval Authority is:

- Inconsistent with the Provincial Policy Statement issued under subsection 3(1) of the *Planning Act*
- Fails to conform with or conflicts with a provincial plan
- Fails to conform with an applicable Official Plan

**And**

B: For a non-decision or decision to refuse by council:

- Consistency with the provincial policy statement, issued under subsection 3(1) of the *Planning Act*
- Conformity with a provincial plan
- Conformity with the upper-tier municipality's Official Plan or an applicable Official Plan

If it is your intention to argue one or more of the above grounds, please explain your reasons:

Please see the enclosed correspondence on behalf of Dunpar Homes, dated July 4, 2022.

Oral/Written submissions to council

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting of council

Written submissions to council

Not applicable

Related Matters

Are there other appeals not yet filed with the Municipality?

Yes  No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application).

Yes  No

If yes, please provide the Ontario Land Tribunal Case Number(s) and/or Municipal File Number(s) for the related matters:

Section 3B – Other Planning Matters

Appeal Specific Information (Continued)

Date application submitted to municipality if known (yyyy/mm/dd):

Date municipality deemed the application complete if known (yyyy/mm/dd):

Please briefly explain the proposal and describe the lands under appeal:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 3B Checklist\(s\)](#) located [here](#) and submit all documents listed.



## Section 4A – Appeals under Environmental Legislation

### Appeal Specific Information

Outline the grounds for the appeal and the relief requested:

Reference Number of the decision under appeal:

Portions of the decision in dispute:

Date of receipt of Decision or Director's Order (yyyy/mm/dd):

Applying for Stay?  Yes  No

If Yes, outline the reasons for requesting a stay: (Tribunal's Guide to Stays can be viewed [here](#))

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 4A Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

## Section 4B – Environmental Application for Leave to Appeal

Are you filing an Application for Leave to Appeal under the *Environmental Bill of Rights, 1993*?

Yes  No

Identify the portions of the instrument you are seeking to appeal:

Identify the grounds you are relying on for leave to appeal. Your grounds should include reasons why there is good reason to believe that no reasonable person, having regard to the relevant law and to any government policies developed to guide decisions of that kind could have made the decision; and why the decision could result in significant harm to the environment:
Outline the relief requested:
There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the <u>Section 4B Checklist(s)</u> located <u>here</u> and submit all documents listed on the checklist.

**Section 5 – Appeal regarding Development Permit Application under the *Niagara Escarpment Planning and Development Act***

<b>Appeal Specific Information</b>
Development Permit Application File No:
Address or legal description of the subject property:
Reasons for Appeal: Outline the nature and reasons for your appeal. Specific planning, environmental and/or other reasons are required. (The Niagara Escarpment Plan is available on the Niagara Escarpment Commission’s website (www.escarpment.org))

**Section 6 – Mining Claim and Conservation Matters**

**Appeal Specific Information**

List the subject Mining Claim Number(s) (for unpatented mining claims) and accompanying Townships, Areas and Mining Division(s) where mining claims are situated. List all "Filed Only" Mining Claims, if appropriate: (This is to be completed for *Mining Act* appeals only.)

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List the Parcel and the Property Identifier Numbers (PIN), if rents or taxes apply to mining lands, if appropriate (mining claims only):

--

Provide the date of the Decision of the Conservation Authority or the Provincial Mining Recorder, as appropriate:

--

Provide a brief outline of the reasons for your application/appeal/review. If other lands/owners are affected, please include that information in the outline being provided below:

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**Respondent Information**

Conservation Authority:

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Contact Person:

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Email Address:

--

Daytime Telephone Number:

Alternative Telephone Number:

	ext.		
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Mailing Address or statement of last known address/general area they were living and name of local newspaper if address is not available

Unit Number:	Street Number:	Street Name:	P.O. Box:

City/Town:	Province:	Country:	Postal Code:

There are required documents and materials to be submitted to the Ontario Land Tribunal (OLT) based on the type of legislation and section you are filing under. Please see the [Section 6 Checklist\(s\)](#) located [here](#) and submit all documents listed on the checklist.

**Section 7 – Filing Fee**

**Required Fee**

Please see the attached link to view the [OLT Fee Chart](#).

Total Fee Submitted: \$1,100.00

Payment Method	<input type="checkbox"/> Certified Cheque	<input type="checkbox"/> Money Order	<input type="checkbox"/> Lawyer's general or trust account cheque
	<input checked="" type="checkbox"/> Credit Card		

If you wish to pay the appeal fee(s) by credit card, please check the box above and OLT staff will contact you by telephone to complete the payment process upon receipt of the appeal form. **DO NOT INCLUDE YOUR CREDIT CARD INFORMATION ON THIS FORM. YOU WILL BE CONTACTED TO COMPLETE YOUR PAYMENT OVER THE PHONE.**

If a request for a fee reduction is being requested, please pay the minimum filing fee for each appeal and complete/submit the [Fee Reduction request form](#).


Request for Fee Reduction form is attached (if applicable – see Appeal Form Guide for more information)

**Section 8 – Declaration (Mandatory)**

**Declaration**

I solemnly declare that all the statements and the information provided, as well as any supporting documents, are true, correct and complete.

By signing this appeal form below, I consent to the collection of my personal information.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Michael Nemanic		2022.07.04

Personal information or documentation requested on this form is collected under the authority of the *Ontario Land Tribunal Act* and the legislation under which the proceeding is commenced. All information collected is included in the Ontario Land Tribunal (OLT) case file and the public record in this proceeding. In accordance with the *Freedom of Information and Protection of Privacy Act* and section 9 of the *Statutory Powers Procedure Act*, all information collected is available to the public subject to limited exceptions.

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 at [OLT.Coordinator@ontario.ca](mailto:OLT.Coordinator@ontario.ca) or toll free at 1-866-448-2248 as soon as possible.

**Section 9 – Filing Checklists (Mandatory)**

**Filing/Submitting your form and documentation**

You must file your Appeal Form with the appropriate authority(s) by the filing deadline.

<b>If the completed Section is:</b>	<b>Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.</b>
Section 3B	Review the Section 3B Checklist(s) and attach all listed documents.
Section 4A	Review the Section 4A Checklist(s) and attach all listed documents.
Section 4B	Review the Section 4B Checklist(s) and attach all listed documents.

<b>If the completed Section is:</b>	<b>You must file with the following:</b>	
Section 3A	<p>Municipality or the Approval Authority/School Board</p> <p>*If you are filing under the <i>Ontario Heritage Act</i>, including under <b>s. 34.1(1)</b>, please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal <b>in addition</b> to the Municipality or Approval Authority.</p>	
Section 3A & 3B or Section 4A or Section 4B or Section 6	<p>Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5</p> <p>Phone: 416-212-6349   1-866-448-2248 Website: <a href="http://www.olt.gov.on.ca">www.olt.gov.on.ca</a></p>	
Section 5	<p><b>For the Areas of:</b></p> <p>Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION 232 Guelph Street, 3<sup>rd</sup> Floor Georgetown, ON L7G 4B1</p>	<p><b>For the Areas of:</b></p> <p>Bruce County Grey County Simcoe County Dufferin County (Mulmur, Melancthon)</p> <p><b>File with:</b></p> <p>NIAGARA ESCARPMENT COMMISSION 1450 7<sup>th</sup> Avenue Owen Sound, ON N4K 2Z1</p>

	Phone: 905-877-5191 Fax: 905-873-7452 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necgeorgetown@ontario.ca">necgeorgetown@ontario.ca</a>	Phone: 519-371-1001 Fax: 519-371-1009 Website: <a href="http://www.escarpment.org">www.escarpment.org</a> Email: <a href="mailto:necowensound@ontario.ca">necowensound@ontario.ca</a>
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**NOTE:** Please review the notice of the decision you are appealing to determine the appeal deadline and the specific official with whom the appeal should be filed (e.g. Secretary-Treasurer, Clerk, Minister, Ontario Land Tribunal).

**NOTE:** Relevant portions of the applicable legislation should be reviewed before submitting this form. Please ensure that a copy of this Appeal Form is served in accordance with the requirements of the applicable legislation.