

DUXBURY LAW
TRIAL & TRIBUNAL LAWYERS

Brian Duxbury B.A., L.L.B.
Certified Specialist – Civil Litigation
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T. David Marshall B.A., L.L.B., L.L.M.
Barrister & Solicitor
david@durburylaw.ca

November 16, 2017

OFFICE OF THE CITY CLERK

NOV 16 2017

DELIVERED

Clerk
City of Hamilton
Office of the City Clerk
71 Main Street West, 1st Floor
Hamilton, ON L8P 4Y5

Dear Clerk:

**RE: 9684, 9694 and 9714 Twenty Road West, Hamilton, Ontario –
Appeal by Harmony on Twenty Properties Inc. to the
Ontario Municipal Board for Failure of the Approval Authority
To make a Decision**

Please find enclosed three appeals to the Ontario Municipal Board in respect to the above noted matter.

Yours very truly,

DUXBURY LAW
PROFESSIONAL CORPORATION

Per:



Brian Duxbury
BD:mc
Encls.

DUXBURY LAW PROFESSIONAL CORPORATION

1 King St. W., Suite 500, Hamilton, ON L8P 1A4 | T 905 570 1242 | F 905 570 1955
durburylaw.ca



Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500
 Toronto ON M5G 1E5
 Telephone: 416-212-6349
 Toll Free: 1-866-448-2248
 Fax: 416-326-5370
 Website: www.elto.gov.on.ca

Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality
OFFICE OF THE CITY CLERK

 NOV 16 2017

1. Appeal Type (Please check all applicable boxes) *

Subject of Appeal	Type of Appeal	Act Reference (Section)
Planning Act Matters		
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input checked="" type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
Zoning By-law or Zoning By-law Amendment	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
Interim Control Zoning By-law	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
Minor Variance	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
Consent/Severance	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
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Plan of Subdivision	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
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Subject of Appeal	Type of Appeal	Act Reference (Section)
Development Charges Act Matters		
Development Charge By-law	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
Development Charge Complaint	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
Front-ending Agreement	<input type="checkbox"/> Objection to a front-ending agreement	47
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Education Act Matters		
Education Development Charge By-law	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
Education Development Charge Complaint	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
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Aggregate Resources Act Matters		
Aggregate Removal Licence	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
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Municipal Act Matters		
Ward Boundary By-law	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
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Ontario Heritage Act Matters		
Heritage Conservation District	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
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Other Matters		
Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal *
9684, 9694, 9714 Twenty Road West, Hamilton, Ontario

Municipality *
City of Hamilton

Upper Tier (Example: county, district, region)

3. Appellant/Objector Information

Note: You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name | First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) *
Harmony on Twenty Properties Inc.

Professional Title

Email Address
acameracci@urbex.biz

Daytime Telephone Number * 905-522-3328	ext. 113	Alternate Telephone Number	Fax Number 905-522-0452
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Mailing Address

Unit Number	Street Number * 161	Street Name * Rebecca Street	PO Box
City/Town * Hamilton	Province * Ontario	Country * Canada	Postal Code * L8R 1B9

4. Representative Information

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

Last Name | First Name
Duxbury | Brian

Company Name
Duxbury Law Professional Corporation

Professional Title
Lawyer

Email Address
brian@duxburylaw.ca

Daytime Telephone Number 905-570-1242	ext.	Alternate Telephone Number	Fax Number 905-570-1955
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Unit Number 500	Street Number 1	Street Name King Street West	PO Box
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Note: If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB'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.

5. Appeal Specific Information

Municipal Reference Number(s)
City of Hamilton File No. UHOPA-15-12R

Outline the nature of your appeal and the reasons for your appeal *

This is an appeal to the Ontario Municipal Board for failure of the approval authority (City of Hamilton) to make a decision on the Official Plan Amendment Application within 180 days.

The City of Hamilton extended the approval period for this Official Plan Amendment from 180 days to 270 days. That time period has now elapsed.

The Appellant submits that this proposed amendment to the Urban Hamilton Official Plan to designate a portion of the lands from "Low Density Residential 2" to "Low Density Residential 2c" in the northwest Glanbrook Secondary Plan for the lands, is consistent with the provisions of the Provincial Policy Statement, 2014 and conform with the Growth Plan for the Greater Golden Horseshoe.

The Appellant submits that it has provided all required studies and justification for the amendment and that it has satisfied the requirements of the City of Hamilton in respect to Planning Act matters and that the proposed amendment and designation represents good land use planning.

Such further and other grounds for this appeal as may be advisable.

Oral/written submissions to council

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

Oral submissions at a public meeting Written submissions to council

Planning Act matters only

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes No

6. 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

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

1 day 2 days 3 days 4 days 1 week

More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

Two

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)

Land use planning and engineering

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Land use planning and engineering

Do you believe this matter would benefit from mediation?
(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes No

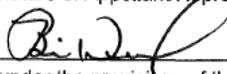
8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * Certified cheque Money Order Solicitor's general or trust account cheque

9. Declaration

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

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Brian Duxbury		2017/11/16

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.



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	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
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Subject of Appeal	Act/Legislation Name	Section Number

2. Location Information

Address and/or Legal Description of property subject to the appeal *
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Municipality *
City of Hamilton

Upper Tier (Example: county, district, region)

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Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) *
Harmony on Twenty Properties Inc.

Professional Title

Email Address
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4. Representative Information

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

Last Name Duxbury	First Name Brian
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Company Name
Duxbury Law Professional Corporation

Professional Title
Lawyer

Email Address
brian@duxburylaw.ca

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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.

5. Appeal Specific Information

Municipal Reference Number(s)
City of Hamilton File No. ZAC-15-23R

Outline the nature of your appeal and the reasons for your appeal *
The Appellant submits that the proposed Zoning By-law Amendment to provide for modifications to a mix of residential zones and to open space conservation represents a mix of uses that will implement the Official Plan designation and amendment and constitutes good land use planning.

The Appellant submits that it has provided such information, studies and responses as are required to satisfy the planning requirements of the City of Hamilton.

The Appellant submits that the City of Hamilton has failed to make a decision on the Application within 120 days of submission of the Application.

The Appellant will submit such further and other grounds as may be deemed advisable.

Oral/written submissions to council

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

Oral submissions at a public meeting Written submissions to council

Planning Act matters only

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes No

6. 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 OMB Reference Number(s) and/or Municipal File Number(s)
Official Plan Application UHOPA-15-12R and Plan of Subdivision Application 25T-2015-05R

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

1 day 2 days 3 days 4 days 1 week
 More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)
Land use planning and engineering

Do you believe this matter would benefit from mediation?
(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes No

8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * Certified cheque Money Order Solicitor's general or trust account cheque

9. Declaration

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

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Brian Duxbury		2017/11/16

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Duxbury | Brian

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5. Appeal Specific Information

Municipal Reference Number(s)
City of Hamilton File No. 25T-2015-05R

Outline the nature of your appeal and the reasons for your appeal *
The Appellant submits that the proposed draft Plan of Subdivision implements the Zoning By-law Amendments and Official Plan Amendment sought by the Appellant for the subject property.

The Appellant submits that it has satisfied the requirements of the City of Hamilton in respect to the City's requirements for the draft Plan of Subdivision and says that the Plan of Subdivision satisfies the requirements of subsection 51(24) of the Planning Act and represents good land use planning. The Appellant submits that the City has failed to make any determination in respect to the Appellant's draft Plan of Subdivision within 180 days of submission of its Application.

The Appellant submits such further and other grounds as may be deemed advisable.

Oral/written submissions to council

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

Oral submissions at a public meeting Written submissions to council

6. 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 OMB Reference Number(s) and/or Municipal File Number(s)
Official Plan Application UHOPA-15-12R and Zoning Application ZAC-15-23R

7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

1 day 2 days 3 days 4 days 1 week
 More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?
Two

Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)
Land use planning and engineering

Do you believe this matter would benefit from mediation?
(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes No

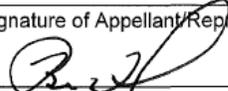
8. Required Fee

Total Fee Submitted * \$ 300

Payment Method * Certified cheque Money Order Solicitor's general or trust account cheque

9. Declaration

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

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Brian Duxbury		2017/11/16

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.