

RUSSELL D. CHEESEMAN

*- Barrister & Solicitor -*

REAL ESTATE DEVELOPMENT | MUNICIPAL LAW | ENVIRONMENTAL LAW

July 30, 2020

**DELIVERED BY COURIER and BY E - MAIL**

Ms. Andrea Holland  
 City Clerk  
 Corporation of the City of Hamilton  
 71 Main Street West, 1<sup>st</sup> Floor  
 Hamilton, Ontario  
 L8P 4Y5

Dear Ms. Holland:

**Re: Notice of Appeals Pursuant to Section 22(7) and 34(11) of the  
*Planning Act*, R.S.O. 1990, c. P. 13, as amended – T. Valeri  
 Construction Limited – 73-89 Stone Church Road West and  
 1029 West 5<sup>th</sup> Street, City of Hamilton  
 City of Hamilton File Nos. UHOPA-19-08 & ZAC-19-029**

We are counsel for T. Valeri Construction Limited, the owner of the above referenced lands in the City of Hamilton.

T. Valeri Construction Limited, through its land use planning consultants, Urban Solutions Planning & Land Development Consultants Inc., filed applications to amend both the Official Plan and the Comprehensive Zoning By-law of the City of Hamilton in respect of the above referenced property on April 18, 2019. The applications were deemed complete by the City of Hamilton on May 23, 2019.

To date the City of Hamilton has failed to adopt the Official Plan Amendment and neglected to make a decision on the Zoning By-law Amendment.

This letter will serve as our client's Notice of Appeal of Hamilton Council's failure to adopt the requested Official Plan Amendment Application pursuant to Section 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended. This letter will also serve as our client's Notice of Appeal of Hamilton Council's neglect to make a decision on the Zoning By-law pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Please find enclosed our firm's cheque in the amount of \$2200.00, payable to the "Minister of Finance – Ontario", which we understand to be the required combined

<b>OFFICE OF THE CITY CLERK</b>	
JUL 31 2020	
REF'D TO	_____
REF'D TO	_____
REF'D TO	_____
ACTION	_____
_____	

Royal Building  
 277 Lakeshore Road East, Suite 211  
 Oakville ON L6J 1H9



Toronto Meeting Rooms  
 Brookfield Place, 161 Bay Street, Suite 2700  
 Toronto ON M5J 2S1

fee for these types of appeals. Please also find enclosed one set of completed Form "A1" of the Local Planning Appeal Tribunal, for inclusion with the documentation you will forward to the Local Planning Appeal Tribunal.

Our client is of the opinion that the applications as submitted are consistent with the Provincial Policy Statement 2014, issued under Section 3 of the *Planning Act*. We also are of the opinion that the applications are in conformity with the Growth Plan for the Greater Golden Horseshoe, which is the Provincial Plan in effect and applicable to these lands. We believe the applications that were submitted constitute good land use planning.

We trust that you will now prepare a record and forward the prescribed material to the Local Planning Appeal Tribunal within fifteen days of the receipt of this notice, in compliance with Sections 22(9) and 34(23) of the *Planning Act*.

Thank you for your cooperation in respect of this matter.

Yours very truly,

A handwritten signature in cursive script, appearing to read "RD Cheeseman".

Russell D. Cheeseman

cc. Mr. Ted Valeri (via e-mail)  
Mr. Paul Valeri (via e-mail)



Environment and Land Tribunals Ontario  
**Local Planning Appeal Tribunal**

655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Website: [www.elto.gov.on.ca](http://www.elto.gov.on.ca)

Receipt Number (LPAT Office Use Only)
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Date Stamp Appeal Received by Municipality/Approval Authority
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**To file an appeal, select one or more below**

- Appeal of *Planning Act* 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, proceed to Section 1A
- Second appeal of a *Planning Act* matter for Official Plans and amendments, Zoning By-Laws and amendments, proceed to Section 1B. NOTE: Bill 139, *Building Better Communities and Conserving Watersheds Act, 2017*, allows appeals to the Tribunal of some *Planning Act* matters previously determined by LPAT.
- Appeals of other matters, including Development Charges, *Education Act*, *Aggregate Resources Act*, *Municipal Act* and Ontario Heritage, proceed to Section 1C

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

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<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 type="checkbox"/> Approval Authority failed to make a decision on the plan within 120 days	17(40)
	<input checked="" type="checkbox"/> Council failed to adopt the requested amendment within 120 days	22(7)
	<input type="checkbox"/> Council refuses to adopt the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<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 90 days	34(11)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision within 120 days where the application is associated with an Official Plan Amendment	
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law within 60 days (Minister only)	38(4)
	<input type="checkbox"/> Appeal the passing of an extension of an Interim Control By-law within 60 days	38(4.1)
<b>Site Plan</b>	<input type="checkbox"/> Application for a site plan – council failed to make a decision within 30 days	41(12)

Subject of Appeal	Type of Appeal	Page 4 Reference (Section)
	<input type="checkbox"/> Appeal requirements imposed by the municipality or upper tier municipality	41(12.01)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<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)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 120 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved a plan of subdivision	
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did not approve a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	51(39)
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	51(43)
	<input type="checkbox"/> Appeal changed conditions	51(48)

**1 B. Appeal Type (Please check all applicable boxes) Only for appeal(s) of a new decision or non-decision by municipality or Approval Authority following a previous LPAT Decision (i.e., second appeal).**

For matters subject to Bill 139 and the associated transition regulation (the second appeal).

Subject of Appeal	Type of Appeal	Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal of a <b>decision</b> by Approval Authority on an OP or OPA (exempt from approval by Minister or Approval Authority) following a LPAT decision	17(24) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council or Approval Authority on an OP or OPA following a LPAT decision	17(36) and 17(49.6)
	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	22(7) and 22(11.0.12)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal of a <b>refusal</b> within 90 days by Council following a LPAT decision	34(11) and 34(26.5)
	<input type="checkbox"/> Appeal of a <b>non-decision</b> within 90 days by Council following a LPAT decision	
	<input type="checkbox"/> Appeal of a <b>decision</b> by Council following a LPAT decision	34(19) and 34(26.5)

**1 C. Other Appeal Types (Please check all applicable boxes)**

Subject of Appeal	Type of Appeal	Reference (Section)
<b><i>Development Charges Act Matters</i></b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<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)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b><i>Education Act Matters</i></b>		
<b>Education Development Charge By-law</b>	<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)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b><i>Aggregate Resources Act Matters</i></b>		
<b>Aggregate Removal Licence</b>	<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)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b><i>Municipal Act Matters</i></b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	

Subject of Appeal	Type of Appeal	Page 6 Reference (Section)
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
<b>Designation of Property</b>	<input type="checkbox"/> Appeal a Notice of intention to designate property	29(11)
	<input type="checkbox"/> Appeal of an amendment to a by-law designating property	30.1(10)
	<input type="checkbox"/> Appeal a Notice of Intention to repeal a designating by-law or part of a designating by-law	31(9)
	<input type="checkbox"/> Appeal a council's decision to approve or refuse the repealing of a designating by-law or part of a designating by-law	32(7)/32(8)
	<input type="checkbox"/> Appeal council's decision to alter a heritage designated property	33(9)
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)
<b>Other Act Matters</b>		
Subject of Appeal	Act/Legislation Name	Section Number

## 2. Location Information

Address and/or Legal Description of property subject to the appeal  
73-89 Stone Church Road West & 1029 West 5th Street

Municipality  
City of Hamilton

Upper Tier (Example: county, district, region)

## 3. Appellant/Objector Information

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

Last Name  
Valeri

First Name  
Ted

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)  
T. Valeri Construction Limited

Email Address  
ted@valeryhomes.com

Daytime Telephone Number  
905-547-5056

ext.

Alternate Telephone Number

### Mailing Address

Unit Number

Street Number  
2140

Street Name  
King Street East

PO Box

City/Town  
Hamilton

Province  
Ontario

Country  
Canada

Postal Code  
L8K 1W6

**4. Representative Information**

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

Last Name  
Cheeseman

First Name  
Russell

Company Name

Professional Title  
Barrister and Solicitor

Email Address  
rdcheese@aol.com

Daytime Telephone Number  
416-955-9529

ext.

Alternate Telephone Number  
416-520-9854

**Mailing Address**

Unit Number  
211

Street Number  
277

Street Name  
Lakeshore Road East

PO Box

City/Town  
Oakville

Province  
Ontario

Country  
Canada

Postal Code  
L6J 1H9

**Note:** If you are representing the appellant and are not licensed under the *Law Society Act*, please confirm that you have written authorization, as required by the LPAT'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 Reasons**

Municipal Reference Number(s)  
City of Hamilton File Nos. UHOPA-019-08 & ZAC-19-029

For all appeal types, please outline the nature of the appeal and the reasons for your appeal.

Please see accompanying letter, dated July 30, 2020

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

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 you intend on arguing on one or more of the above throughout a proceeding, please explain:  
Please see accompanying letter, dated July 30, 2020

**Oral/written submissions to council**

If applicable, did you make your opinions regarding this matter known to council?

- Oral submissions at a public meeting of council
- 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 LPAT Case Number(s) and/or Municipal File Number(s)

**7. Mediation**

Mediation is a confidential process in which the parties to an appeal talk about their differences and, with the facilitative assistance of an impartial individual, a mediator, negotiate a consensual resolution of the appeal. Unless the Tribunal determines that there is a good reason for not addressing the appeal with mediation, all parties shall presume that their differences will first be addressed through a mediation directed by the Tribunal. As such, parties shall act and prepare accordingly, meaning good faith negotiation and collaboration are a priority and are expected by the Tribunal.

- I have read and understand the above statement.

**8. Witness Information**

Detail the nature and/or expertise of witnesses you will have available.

Land Use Planning, Architectural & Urban Design, Acoustical Engineering, Civil Engineering, Traffic Engineering, Hydrogeological Engineering, Geotechnical Engineering, Archaeological, Landscape Architecture

**For all other appeal types :**

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

**9. Required Fee**


Total Fee Submitted \$ 2,200

- Payment Method ►  Certified cheque  Money Order  Lawyer's general or trust account cheque



**10. 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)
Russell D. Cheeseman		2020/07/30

Personal information or documentation requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990 c. P. 13 and the *Local Planning Appeal Tribunal Act*. After an appeal is filed, all information relating to this appeal may become available to the public.