

BARRISTERS · SOLICITORS
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Herbert T. Arnold HTAesq@aol.com Ann Clifford, Assistant (ext. 112) aclifford@arnold-foster.com

OFFICE OF THE CITY CLERK

REF'D TO

October 18, 2024

Via Same Day Courier

City of Hamilton
71 Main Street West, 1st Floor
Hamilton, Ontario
L8P 4Y5

RE:

Attention: City Clerk

Dear Sir /Madamne:

Notice of Appeal

Appellant/Applicant: Highgate Holdings Inc. 299, 307 and 325 Fiddler's Green Road, Ancaster

City File(s): ZAC-23-010 Folder 2023: 100576 00 PLAN (1162989)

Please accept this letter and enclosures as a Notice of Appeal under s. 34(11) of the *Planning Act* on behalf of Highgate Holdings Inc. (the "Applicant"). The Applicant filed an application to amend the Zoning Bylaw on December 2, 2022, and the municipality deemed the application to be complete on January 18, 2023. The municipality has failed to make a decision on the application.

Please find the following enclosures:

- 1. Completed Appeal Form (A1)
- 2. Our firm cheque in the amount of \$1,100.00 payable to the Minister of Finance

Kindly acknowledge receipt of this Notice of Appeal.

Yours truly,

Herbert T. Arnold

ARNOLD, FOSTER LLP

HTA/ac Enclosures



### Ontario Land Tribunal

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

## Appeal Form (A1)

# Municipal/Approval Authority Date Stamp

Receipt Number
(OLT Office Use Only)

OLT Case Number
(OLT Office Use Only)

	Appeal Received
by	OLT

You may be able to submit your appeal online using our new e-file service if:

- the approval authority you are submitting your appeal to is registered on e-file; or
- you are appealing directly to the Ontario Land Tribunal

Please visit our e-file page to learn more.

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 <u>website</u> 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/C	Dbjector/Claimant Infor	matic	on ·		Fig. 198	
Last Name:				First Name:		
	ssociation Name (Ass	ociati	on must be ii	ncorporated – incl	ude copy of lette	r of
incorporation):						
HIGHGATE HOLDIN	GS INC. (Certificate of	of Inc	orporation a	attached)		
Email Address:						
christoph@mountai	nviewresidence.com					
Daytime Telephone N	lumber:		200-200-200	Alternative Telep	hone Number:	
905-877-1800	ext.					
Mailing Address					,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	
Unit Number: Street Number:		Street Nam	ne:		P.O. Box:	
	222		Mountainv	iew Road N.		
City/Town:	own: Province:			Country:	Postal	Code:
Georgetown	n Ontario Ca			Canada	L7G 3F	₹2

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incorpo	ny Name or Assoc	lation Nam	ie (Associatio	on must be in	ncorporated – include copy	of letter	or
	Foster LLP (Hei	hart T Arr				2 100	
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	Address	***************************************	OAL.				
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City/Tov	vn:		Province:		Country:	Postal C	Code:
George		H	Ontario		Canada	L7G 4B	
		ve is not lic	ensed under	the Law So	ciety Act, please confirm th	nat they h	ave your
written a	authorization, as r	equired by	the OLT Rule	es of Practice	e and Procedure, to act on	your beh	nalf and that
they are	also exempt und	er the Law	Society's by-	-laws to prov	ide legal services. Please	confirm to	nis by
checkin	g the box below.						
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con	firmation of their e	xemption u	under the Lav	v Society's b	y-laws to provide legal ser	vices.	
Location	n Information						
	the current owne	r of the sub	niect property	? x Yes	s □ No		
	Address and/or Legal Description of property subject to the appeal: 299, 307 and 325 Fiddler`s Green Road						
Municipa					T	****	
	raster (Hamilton)						
	Upper Tier (Example: county, district, region):						
	export for texample, county, district, region).						
Language Requirements							
Do you require services in French? ☐ Yes x No							
To file a	n appeal, please o	complete th	ne section be	low. Complet	e one line for each appeal	tvipe	5. E
					of Appeal		Reference
	Subject of Appea	ll .			lation Name)		tion Number)
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Ву	law Amendment			Гіані	ing Act		34(11)
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Section	2 – Appeal Type (	Mandatory	)				
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Please s	elect the applicab	le type of i	matter				
Select		Legislat	tion associate	ed with your	matter		lete Only the
	Appeal of Diam					Secti	on(s) Below
.,	Appeal of Planning Act matters for Official Plans and amendments, Zoning  By Laws and amendments and Plans of Subdivision, Interim Control By Jaws						
Х	By-Laws and amendments and Plans of Subdivision, Interim Control By-laws, Site Plans, Minor Variances, Consents and Severances						
	Site Plans, Minor Variances, Consents and Severances						

Appeal of Development Charges, Education Act, Aggregate Resources Act, Municipal Act matters	3A
Appeal of or objection to <i>Ontario Heritage Act</i> matters under subsections 29, 30.1, 31, 32, 33, 40.1 and 41	3A
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
Appeal of 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 matters	4A
Application for Leave to Appeal under the Environmental Bill of Rights, 1993	4B
Appeal under the <i>Niagara Escarpment Planning and Development Act</i> (NEPDA)	5
Appeal of Conservation Authorities Act, Mining Act, Lakes and Rivers Improvement Act, Assessment Act, and Oil, Gas and Salt Resources Act matters	6
Legislation not listed above	Contact OLT before filing your appeal

Section 3A – Planning Matters
Section 3A - Flaming Matters
Appeal Reasons and Specific Information
Number of new residential units proposed:
Retirement Home: 59 units
Municipal Reference Number(s):
File(s): ZAC-23-010 Folder 2023: 100576 00 PLAN (1162989)
List the reasons for your appeal:
Appellant/Applicant filed an Application to Amend the Zoning Bylaw on December 2, 2022.
The municipality deemed the Application to be complete on January 18, 2023.
Municipality has failed to make a decision.
Has a public meeting been held by the municipality?
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 <i>Planning Act</i>
□ 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:
x Consistency with the provincial policy statement, issued under subsection 3(1) of the <i>Planning Act</i>
x Conformity with a provincial plan
2 Something with a provincial plan

x 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:
As set out in the Planning Justification Report dated December 2022, the proposal is consistent with the PPS and in
conformity to the Growth Plan and the Urban Hamilton Official Plan (UHOP). The proposal promotes efficient
development and contributes to a range of housing options. The proposal prioritizes intensification, and provides
seniors housing in proximity to existing transit, public service facilities, and other essential services. The proposed
three (3) storey, 59-unit addition represents a reasonable and appropriate level of intensification and promotes
compact, transit supportive and compatible development within the surrounding area. The proposal is a permitted
use in the Neighbourhoods designation and conforms to the intensification policies of the Urban Hamilton Official
Plan.
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
x Not applicable
Related Matters
Are there other appeals not yet filed with the Municipality?
☐ Yes x No
Are there other matters related to this appeal? (For example: A consent application connected to a variance
application).
☐ Yes x 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 Optorio Land Tribunal (OLT) based on the
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 3B Checklist(s)</u> 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:

## Appendix "C" to Report PED25000 Page 6 of 9

Reference Number of the decision under appeal:
Treference transporter the decicient and appear.
Portions of the decision in dispute:
Data of receipt of Decision or Director's Order (vanualrem (dd))
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:
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 4A Checklist(s)</u> located <u>here</u> 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 <i>Environmental Bill of Rights,</i> $\Box$ Yes $\Box$ No 1993?
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:
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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 <i>Niagara Escarpment Planning and Development Act</i>
Appeal Specific Information
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 <i>Mining Act</i> appeals only.)
(This is to be completed for <i>Minimity Act</i> appeals only.)
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:

5M						
Respondent Information						
Conservation Authority:						
Contact Person:						
Contact Person.						***************************************
Email Address:		****				
Daytime Telephone Num	ber:	ext.		Alternative Telepho	one Number:	
Mailing Address or stater	ment of last l		ess/general a	l area they were living	and name of lo	ocal
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type of legislation and se	ection you are	e filing unde	r. Please see	the <u>Section 6 Chec</u>	<u>klist(s)</u> located	<u>here</u> and
submit all documents list	ed on the ch	necklist.				·
Section 7 Filing Fee						
Section 7 – Filing Fee						
Required Fee Please see the attached	link to view t	the <u>OLT Fee</u>	Chart.			
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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 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.

If the completed Section is:	Refer to the relevant checklist and submit all documents listed on the checklist when filing your Appeal Form.
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.

If the completed Section is:	You must file with the following:				
Section 3A	Municipality or the Approval Authority/School Board  *If you are filing under the Ontario Heritage Act, including under s. 34.1(1), please carefully review the specific section of that legislation to determine if your appeal needs to be filed with the Tribunal in addition to the Municipality or Approval Authority.				
Section 3A & 3B or Section 4A or Section 4B or Section 6	Ontario Land Tribunal 655 Bay Street, Suite 1500 Toronto, ON M5G 1E5	Phone: 416-212-6349   1-866-448-2248 Website: <u>www.olt.gov.on.ca</u>			
	For the Areas of: Dufferin County (Mono) Region of Halton Region of Peel Region of Niagara City of Hamilton	For the Areas of:  Bruce County  Grey County  Simcoe County  Dufferin County (Mulmur, Melancthon)  File with:			
Section 5	File with:  NIAGARA ESCARPMENT COMMISSION  232 Guelph Street, 3 <sup>rd</sup> Floor  Georgetown, ON L7G 4B1	NIAGARA ESCARPMENT COMMISSION 1450 7 <sup>th</sup> Avenue Owen Sound, ON N4K 2Z1			
	Phone: 905-877-5191 Fax: 905-873-7452 Website: <u>www.escarpment.org</u> Email: <u>necgeorgetown@ontario.ca</u>	Phone: 519-371-1001 Fax: 519-371-1009 Website: <u>www.escarpment.org</u> Email: <u>necowensound@ontario.ca</u>			

**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.