

**Kagan
Shastri** ^{LLP}
LAWYERS

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File: 13179

December 14, 2016

By Overnight Courier

Ms. Linda Moor, Acting Town Clerk
395 Mulock Drive
Newmarket, Ontario, L3Y 4X7

LEGISLATIVE SERVICES		
INCOMING MAIL	REFD TO	COPY TO
DEC 16 2016		

Dear Ms. Moor:

**Re: Appeal to the Ontario Municipal Board on behalf of Main Street Clock Inc.
Appeal pursuant to section 34(11) of the Planning Act, R.S.O. 1990, c.P.13, as amended
Denial of the application to amend the Zoning By-law for 178, 180, 184, 188, 190 and 194 Main Street, Newmarket (the "Property")**

We are the solicitors for Main Street Clock Inc. On August 23, 2013 our client filed a rezoning application to redevelop the Property. The Town deemed the application complete on September 11, 2013. No amendment to the Town or Region of York Official Plan was required.

Since August 2013, more than three years ago, our client has waited for Town staff to prepare a recommendation report on its application. Staff finally prepared a report for the November 28, 2016 Town Council meeting. Council did not accept the staff recommendations and instead passed a resolution providing for a number of matters including:

1. Denying the rezoning application.
2. Directing staff to bring forward a zoning by-law amendment of Council's own making; and
3. Directing staff to bring back an amendment to the Heritage Conservation District Plan, also of Council's own making.

As a result of the denial of the rezoning application, Main Street Clock Inc. hereby appeals that denial to the OMB.

The Property is designated *Historic Downtown Centre* in the Town's Official Plan and is zoned Historic Downtown Urban Centre Zone (UC-D1). The Property is within the Town's Built-Up Area. The historically designated Clock Tower building itself is proposed to be maintained (albeit repurposed). The Property is also proposed to be within a Heritage Conservation District although Main Street Clock Inc. appealed Heritage By-law 2013-51 to the OMB in 2013. That appeal has been held in abeyance pending the Town's decision on the rezoning application. Now

that the decision has been rendered, and is hereby being placed under appeal, the two appeals should be heard together.

Main Street Clock Inc. proposes a mixed-use development with frontage on both Main Street and Park Street. The maximum height of the build will be 7 stories with step-backs at different levels. A total of 165 residential units and 5 commercial units (on Main Street only) are proposed. In addition, 199 parking spaces are proposed.

In the Town staff report, Town staff advised that there are no unacceptable shadow impacts from the proposed development. Staff (and the Town's external peer review consultant) also advised that there is no unacceptable transportation or parking impacts. Town staff further advised that the proposed development conformed to the Growth Plan. Town staff and the applicant disagree with respect to consistency with the Provincial Policy Statement. Town staff raised issues with the heritage policies of the PPS. Town staff and the applicant likewise disagree respecting conformity the York Region Official Plan. Town staff advised that that there is conformity with most of the ROP but raised issues with the heritage policies of that plan. With respect to the Town's Official Plan, the staff report notes issues only with the heritage policies of the plan. It is fair to say that Town staff's most important issue (policy and otherwise) is heritage.

The proposed development is consistent with the PPS both in terms of appropriate heritage protection and in terms of making more efficient use of serviced lands within the settlement area. The proposed development conforms with the Growth Plan insofar as it provides intensification within the Built-Up Area. The proposed development does not require an Official Plan Amendment at either the regional or local level and in fact complies with all relevant policies in both plans. The proposed development represents good heritage planning and good planning in general.

In support of this appeal please find enclosed the following:

1. Our firm cheque in the amount of \$300 made payable to The Minister of Finance, Ontario, representing the filing fee; and
2. Our firm cheque in the amount of \$150 made payable to the Town of Newmarket for the Town's processing fee.

We request that the Board schedule a prehearing conference for both this appeal and the heritage appeal, at the first available opportunity. Thank you.

Yours very truly,



Ira T. Kagan
Enclos.
cc. Clients

KAGAN SHASTRI LLP

8867

DATE : 2016/Dec/14
CHE # : 08867
AMOUNT : \$300.00
ACCOUNT: GENERAL - 1

PAID TO: Minister of Finance

888
Appeal Filing Fee
MATTER: 13179

CLIENT: 3041 - Main Street Clock Inc.

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE REVERSE

KAGAN SHASTRI LLP
GENERAL ACCOUNT
188 AVENUE ROAD
TORONTO, ONTARIO M5R 2J1

TD CANADA TRUST
165 AVENUE ROAD
TORONTO, ONTARIO M5R 3S4

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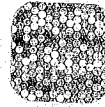
Three Hundred ***** 00/100

PAY

2016/Dec/14 \$ \$300.00

TO
THE
ORDER
OF

Minister of Finance



PER

KAGAN SHASTRI LLP
Manish Singh

PER

Appeal Filing Fee

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Environment and Land Tribunals Ontario
Ontario Municipal Board
 655 Bay Street, Suite 1500 Toronto, Ontario M5G 1E5
 TEL: (416) 212-6349 or Toll Free: 1-866-448-2248
 FAX: (416) 326-5370
 www.elto.gov.on.ca

**APPELLANT FORM (A1)
 PLANNING ACT**

SUBMIT COMPLETED

**TO
 MUNICIPALITY/APPROVAL
 AUTHORITY**

FORM

Seal 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)
Consent/Severance	<input type="checkbox"/> Appeal a decision	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Failed to make a decision on the application within 90 days	53(14)
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 checked="" 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	38(4)
Official Plan or Official Plan Amendment	<input type="checkbox"/> Appeal a decision	17(24) or 17(36)
	<input type="checkbox"/> Failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days	22(7)
	<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(39)
	<input type="checkbox"/> Appeal conditions imposed	51(43) or 51(48)
	<input type="checkbox"/> Failed to make a decision on the application within 180 days	51(34)

Part 2: Location Information

178, 180, 184, 188, 190 and 194 Main Street
 Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: **Town of Newmarket, Region of York**

Part 3: Appellant Information

First Name: _____ Last Name: _____

Main Street Clock Inc.

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable): **Please see solicitor's information below** _____

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

Daytime Telephone #: _____ Alternate Telephone #: _____

Fax #: _____

Mailing Address: _____
Street Address Apt/Suite/Unit# City/Town

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: **Ira** Last Name: **Kagan**

Company Name: **KAGAN SHASTRI LLP**

Professional Title: **Lawyer**

E-mail Address: **IKAGAN@KSLLP.CA**
By providing an e-mail address you agree to receive communications from the OMB by e-mail.

Daytime Telephone #: **416-368-2100 x.226** Alternate Telephone #: **416-417-3079 (cell)**

Fax #: **416-324-4224**

Mailing Address: **188 Avenue Road** **Toronto**
Street Address Apt/Suite/Unit# City/Town

Ontario **M5R 2J1**
Province Country (if not Canada) Postal Code

Signature of Appellant: **Ira T. Kagan** Date: **December 14, 2016**

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)

Refusal by the Town of Newmarket of a rezoning application.

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 attached cover 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: FEBRUARY 19, 2016**
(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.

Please see the attached cover letter.

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)

Part 8: Scheduling Information

How many days do you estimate are needed for hearing this appeal? half day 1 day 2 days 3 days
 4 days 1 week More than 1 week – please specify number of days:

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

Do you believe this matter would benefit from mediation? YES NO
(Mediation is generally scheduled only when all parties agree to participate)

Do you believe this matter would benefit from a prehearing conference? YES NO
(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why? Establish the parties and issues. **For the PHC, to set a hearing schedule and date. For the mediation, to scope issues and settle the appeal entirely.**

Part 9: Other Applicable Information ** Attach a separate page if more space is required.

Part 10: Required Fee

Total Fee Submitted: \$300

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

- The payment must be in Canadian funds, **payable to the Minister of Finance.**
- **Do not send cash.**
- **PLEASE ATTACH THE CERTIFIED CHEQUE/MONEY ORDER TO THE FRONT OF THIS FORM.**