

Ontario Land Tribunal

655 Bay Street, Suite 1500
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**Tribunal ontarien de
l'aménagement du territoire**

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Toronto ON M5G 1E5
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PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Applicant/Appellant	Nelson Aggregate Co.
Property Owner	546958 Ontario Limited
Property Owner	Bestway TV and Appliances Limited
Subject:	Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
Description:	to permit the expansion of the Nelson quarry
Reference Number:	505-04-20
Property Address:	2226, 2232, 2244, 2280, 2292, 2300, 2316, 2330 No. 2 Side Road and 5235 Cedar Springs Road
Municipality/UT:	Burlington/Halton
OLT Case No:	OLT-22-004372
OLT Lead Case No:	OLT-22-004372
OLT Case Name:	Nelson Aggregates Co. v. Burlington (City)

PROCEEDING COMMENCED UNDER subsection 11(5) of the *Aggregate Resources Act, R.S.O. 1990, c. A.10*.

Applicant:	Nelson Aggregate Co.
Objector:	Alejandra Calle
Objector:	Alex Brock
Objector:	Anna Denvir et all
Description:	Proposed extension to its Burlington Quarry on lands located to the south and west of the existing Burlington Quarry.
Reference Number:	License No. 626477
Property Address:	2226, 2232, 2244, 2280, 2292, 2300, 2316, 2330 No. 2 Side Road and 5235 Cedar Springs Road
Municipality/UT:	Burlington/Halton
OLT Case No:	OLT-22-004888
OLT Lead Case No:	OLT-22-004372
OLT Case Name:	Nelson Aggregate Co. v. Natural Resources and Forestry (Ministry)

PROCEEDING COMMENCED UNDER section 22(7) of the *Planning Act, R.S.O. 1990, c. P. 13, as amended*.

Applicant/Appellant: Nelson Aggregate Co.
Subject: Failure of Approval Authority to announce a decision respecting a Proposed Official Plan Amendment
Description: The purpose of the application is to amend the Maps of the Halton Region Official Plan to permit the expansion of the existing quarry.
Property Address: 2226, 2232, 2244, 2280, 2292, 2300, 2316, 2330 No. 2 Side Road and 5235 Cedar Springs Road
Municipality/UT: Burlington/Halton
OLT Case No: OLT-22-004886
OLT Lead Case No: OLT-22-004372
OLT Case Name: Nelson Aggregates Co. v. Halton (The Regional Municipality)

PROCEEDING COMMENCED UNDER section 25(5.1) of the *Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N.2, as amended*

Applicant/Appellant: Nelson Aggregate Co.
Respondent: Niagara Escarpment Commission
Subject of appeal: Refusal of a Development Permit Application to allow for development related to the proposed quarry operations.
Reference No.: H/E/2020-2021/108
Property Address: 2226, 2232, 2244, 2280, 2292, 2300, 2316, 2330 No. 2 Side Road and 5235 Cedar Springs Road
Municipality/ UT: Burlington/Halton
OLT Case No.: OLT-23-000541
OLT Lead Case No.: OLT-22-004372
OLT Case Name: Nelson Aggregate Co. v. Ontario (Niagara Escarpment Commission)

PROCEEDING COMMENCED UNDER section 10(3) of the *Niagara Escarpment Planning and Development Act, R.S.O. 1990, c. N.2, as amended*

Applicant/Appellant: Nelson Aggregate Co.
Respondent: Niagara Escarpment Commission
Subject of appeal: Referral of the application to amend the Niagara Escarpment Plan to redesignate the lands from Escarpment Rural Area to Mineral Resource Extraction Area to expand the existing aggregate resource extraction operation
Reference No.: PH 219 20
Property Address: 2226, 2232, 2244, 2280, 2292, 2300, 2316, 2330 No. 2 Side Road and 5235 Cedar Springs Road
Municipality/ UT: Burlington/Halton

OLT Case No.: OLT-23-000631
OLT Lead Case No.: OLT-22-004372
OLT Case Name: Nelson Aggregate Co. v. Ontario (Niagara Escarpment Commission)

NOTICE OF EVENT BY VIDEO

The Ontario Land Tribunal ("Tribunal") will conduct a Case Management Conference by **video conference** for this matter.

The event will be held:

AT: 10:00 AM

ON: October 11, 2023

AT: <https://global.gotomeeting.com/join/709076365>

Access code: 709-076-365

The Tribunal has set aside **1 Day** for this matter.

The event will be held using the GoTo Meetings service. The appellant(s), applicant, municipality or approval authority, and those persons who intend to request party or participant status, are asked to log into the video hearing, through the link provided above, at least **15 minutes** before the start of the event to test their video and audio connections. All persons are expected to access and set-up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at [GoToMeeting](#) or a web application is available: <https://app.gotomeeting.com/home.html>. A compatible web browser for this service is Chrome.

Persons who experience technical difficulties accessing the GoToMeeting application or who only wish to listen to the event can connect to the event by calling into an audio-only telephone line: Canada (Toll Free): **1 888 299-1889** or Canada: **+1 (647) 497-9373**. The access code is **709-076-365**.

Event dates are firm - adjournments will not be granted except in the most serious circumstances, and only in accordance with the Tribunal's Rules of Practice and Procedure ("Rules") [Rule 17](#) on adjournments.

This event is conducted under [Rule 20](#) of the Tribunal's Rules. [Rule 20.2](#) sets out how a party may object to the Tribunal conducting this event electronically. Any party, or any person who intends to seek party status, may object to the Tribunal holding this event by video by filing an objection with the Tribunal's Case Coordinator. The objection must be received by the Tribunal **at least 20 days** before the date of the event and must be copied to the other parties. All contact information is included in Schedule A.

CASE MANAGEMENT CONFERENCE

If you do not attend the CMC, the Tribunal may proceed in your absence and you will not be entitled to any further notice of these proceedings. The Tribunal may finalize the list of appellants, parties and/or participants at this CMC, and may order that no additional appellants, parties and/or participants be added or included in this proceeding, without leave of the Tribunal.

SUBMISSION REQUIREMENTS

If a person intends to refer to a document at the CMC that is not in the Tribunal's case file, the document is expected to be pre-filed, where possible, in paper copy and electronically with the Tribunal **at least 10 days** before the date of the CMC, unless another filing date is specified in the Tribunal's Rules. All pre-filed documents shall be served on the other parties electronically. All contact information is included in Schedule A.

Submissions larger than **10MB** must be transferred to the Tribunal's Case Coordinator using an electronic file sharing link/service. Please see Schedule B for further submission requirements.

The purpose of the CMC is set out in [Rule 19.1](#) of the Tribunal's Rules. The CMC will deal with preliminary issues, that include the following:

- **Identification of parties** - these persons have the right to participate throughout by presenting evidence, questioning witnesses, and making final arguments. In order for the Tribunal to determine your status for the hearing, you or your representative should attend the CMC and ask to be added as a party. Groups, whether incorporated or not, who wish to become parties should name a representative. Parties do not need to be represented by lawyers or agents
- **Identification of participants** - persons who do not wish to participate throughout the hearing may attend the hearing and provide a written statement to the Tribunal.
- **Identification of issues.**
- **Possibility of settlement and/or mediation of any or all of the issues** – the panel will explore with the parties whether the case before the Tribunal and the issues in dispute are matters that may benefit from mediation. Mediation is a voluntary process that encourages all sides in a dispute to get a better understanding of each other's positions and fully explore and negotiate options for a mutually acceptable settlement of all or some of the issues in dispute. The panel may direct, upon consent of the parties, that some or all of the issues in dispute proceed to mediation.
- **Start date of the hearing.**
- **Duration of the hearing.**
- **Directions for pre-filing of witness lists, expert witness statements and written evidence.**
- **The hearing of motions.**

- **Draft Procedural Order** – parties are expected to meet before the CMC to consider a draft Procedural Order, as per Rule 19.2 (see Sample Procedural Order). An electronic version is also available on the Tribunal website.
- **Such further matters as the Tribunal considers appropriate.**

Everyone should come prepared to consider specific dates for proceedings in this matter.

All persons who wish to participate in this matter are expected to be prepared should the Tribunal convert the CMC to a settlement conference, a motion for procedural directions, or a preliminary hearing, where evidence or formal statements or submissions may be heard. Even when no settlement is reached, the Tribunal may proceed to make a final decision on any evidence received during the conference.

PARTY OR PARTICIPANT STATUS REQUEST:

Persons other than the appellant(s), applicant, municipality or approval authority who wish to participate in the proceeding, either as a party or as a participant, are expected to file a written status request with the Tribunal to outline their interest in the proceeding. The Party Status Request Form and Participant Status Request/Participant Statement Form are available on the Tribunal's website (<https://olt.gov.on.ca>) and are to be used to assist with the preparation of the request. If you are requesting status, this form must be provided **at least 10 days in advance of the hearing to:**

- The assigned Tribunal Case Coordinator **Hanh Dang** at **Hanh.Dang@ontario.ca**.
- The municipality and the approval authority on the same day as it is emailed to the Tribunal Case Coordinator.
- The Applicant and the Appellant(s) on the same day as it is emailed to the Tribunal Case Coordinator.

The contact information for the parties is included in Schedule A.

The written status request will be reviewed and considered by the presiding Member at the CMC. It will also assist the Tribunal in organizing the hearing event. **Attendance by the requestor, or their representative, at the CMC is required for all status requests.**

Persons who are granted **party status** may participate fully in the proceeding (see [Rule 8](#)).

Persons who are granted **participant status** may only participate in writing by way of a participant statement. This statement is expected to be provided 10 days advance of the CMC as part of the status request (see above) and sets out their position in the matter (see [Rule 7.7](#)).

Only persons who are granted party or participant status by the Tribunal at the CMC are permitted to participate in any further hearing event that is convened by the Tribunal for this appeal.

FURTHER DIRECTIONS

Tribunal proceedings are open to the public and all documents filed in a proceeding will be included in the Tribunal's public file (except those documents that may be deemed confidential in accordance with the Ontario Land Tribunal's [Rule 22.1](#)).

The Tribunal shall issue a disposition following the CMC that will set out the directions of the Tribunal. A copy of this decision may be obtained from the Tribunal's website (<https://olt.gov.on.ca>) by referencing the above case number.

Please review the Tribunal's **Rules 7, 8, 17 and 19** for relevant information.

We are committed to providing accessible 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 by emailing olt.coordinator@ontario.ca. If you require documents in formats other than conventional print, or if you have specific accommodation needs, please let us know so we can make arrangements in advance.

Pour recevoir des services en français, veuillez communiquer avec la Tribunal au 1-866-448-2248/(416) 212-6349 ou olt.coordinator@ontario.ca.

For general information concerning the Tribunal, visit our website at <https://olt.gov.on.ca> or you may contact the Tribunal's offices at 1-866-448-2248 or local (416) 212-6349.

DATED at Toronto, this 25 day of July, 2023.

Euken Lui
Registrar

SCHEDULE A

Contact information of statutory parties:

PARTIES	REPRESENTATIVE	
Applicant/Appellant: Nelson Aggregate Co.	David White	david.white@devrylaw.ca
City of Burlington	Rodney Northey	rodney.northey@gowlingwlg.com
The Regional Municipality of Halton	David Germain	dgermain@trlaw.com
	Chris Barnett	cbarnett@osler.com
	Brittany Maione	Brittany.Maione@halton.ca
Ministry of Natural Resources and Forestry	Zach D'Onofrio	zachary.d'onofrio@ontario.ca
Niagara Escarpment Commission	Ken Hare	ken.hare2@ontario.ca
Conservation Halton	Konstantine Stavrakos	stavrakos@omh.ca
PERL	David Donnelly	david@donnellylaw.ca
CORE Burlington	David Donnelly	david@donnellylaw.ca

OBJECTORS	
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SCHEDULE B

INSTRUCTIONS FOR ELECTRONIC PRE-FILING SUBMISSIONS

Submission requirements to organize the video hearing

If a person intends to refer to a document at the video hearing (for clarity, any document that is not in the Tribunal's case file), it is expected to be pre-filed electronically with the Tribunal **at least 10 days** before the date of the video hearing and provided to all parties. The deadline applies unless otherwise specified in the Rules.

Submission emails **under 10MB** in size may be emailed directly to the assigned Tribunal Case Coordinator. Emails **larger than 10MB** must be transferred to the Tribunal's Case Coordinator using an electronic file sharing link/service to avoid sending documents across multiple email parts. Where appropriate, documents are to be submitted in .pdf format.

Naming convention

To assist the Tribunal and the adjudicator during the event, it is important that all submissions are **paginated and labelled appropriately** to clearly identify the content of each document. Where a document contains numerous sections, each section is to be indexed to a table of contents.

Parties are asked to adhere to the following naming convention: **case number_party role_ document type_date of hearing event**.

For example: PL123456_Applicant_Notice of Motion_Jan 1, 2020

Please see Rules 7.1 and 7.2 for the standard document submission requirements.