

Name: Tom Richardson

REQUEST TO APPEAR AS A DELEGATE TOWN OF NIAGARA-ON-THE-LAKE

(PLEASE PRINT CLEARLY OR TYPE ON THIS FORM)

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Street: 40 Queen Street	Box # / RR #:	1360	Phone #: 905-327-6062
City: St. Catharines	Postal Code:	L2R 6Z2	Fax #: 905-688-5814
 Non Agenda Delegation - a presentate COTW Agenda and for which no reportate than 12 p.m. on the Thursday provided in the Agenda Delegation - a presentation we (✓) I have never spoken on this issue be Please refer to the letter attached. 	rt has been pro for to the COT' hich specifical	epared for Cour W or Council M y addresses a	ncil by Staff must be submitted no eeting COTW or Council Agenda item.
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☐ Community & Development Services ☐ Co Note: Your request must be made no later the			
I have read and understand the Delegation F contained on this form, including any attachn Agendas.			
I also understand presentation materials presentations must be emailed to peter.todd@meeting.	<u>notl.com</u> no l		p.m. on the day of the schedule
Thousand Signature			Date
 	(description)	Attached letter	



Via email to betty.disero@notl.com

August 21, 2020

Reply to St. Catharines office THOMAS A. RICHARDSON, C.S. 905.688.2207 — Direct line tarichardson@sullivanmahoney.com

Certified Specialist (Municipal Law – Local Government/Land Use Planning & Development)

Her Worship Lord Mayor Betty Disero and Members of Council Town of Niagara-on-the-Lake 1593 Four Mile Creek Road P.O. Box 100 Virgil, ON LOS 1T0

Dear Mayor Disero and Members of Council:

Re: Town of Niagara-on-the-Lake Draft By-law to Regulate and Prohibit Noise Our File No. 124739

We act as solicitors for Mr. Ed Werner and others with respect to a proposed Noise By-law for the Town of Niagara-on-the-Lake. We have received a news release dated August 11, 2020 indicating that Town Council, at their August 10, 2020 Committee of the Whole – Planning meeting, directed staff to halt pursuit of the draft Noise By-law.

On behalf of our clients, we are writing to express the view, which we believe is shared by many in the community, that Council should continue to pursue the creation of a new by-law to prohibit and regulate noise in the Town of Niagara-on-the-Lake.

In late March, 2020, Mr. Werner called upon this writer to undertake a review of the draft Noise By-law being considered by the Town of Niagara-on-the-Lake. Our opinion letter dated March 30, 2020 was provided to staff. The intent of the letter was to offer suggestions as to how the draft Noise By-law could be improved.

Subsequently, this writer, on behalf of Mr. Werner, attended the virtual Open House held on July 9, 2020, again to offer suggestions as to how the draft Noise By-law might be improved. In short, our client has, from the outset of this process, been involved in attempting to improve the regulation of noise in the Town of Niagara-on-the-Lake.

Client Committed, Community Minded.

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There is currently in force in the Town of Niagara-on-the-Lake By-law No. 4588-12, a by-law to prohibit and regulate noise in the Town of Niagara-on-the-Lake. This by-law follows the terms of the *Municipal Act*, pre 2001, and imposes a general prohibition as follows:

"3. No person shall make, cause or permit sound or vibration at any time, which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of the Town."

As you might expect, the term "which is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of the Town" is open to broad judicial interpretation.

The by-law then has "specific prohibitions" found in Section 4:

"4. No person shall emit, cause or permit the emission of sound resulting from an act listed in Schedule B – Specific Prohibitions, and which sound is audible at a point of reception."

The definition of the term "point of reception" indicates that this is intended to regulate any sound which reaches a point on a property within the municipality originating from another property. The by-law does not regulate sound having regard to the decibel level of the sound. The Model Municipal Noise By-law provided by the Ministry of the Environment 35 years ago in fact encouraged the use of noise levels in order to regulate sound. The current by-law in the Town of Niagara-on-the-Lake continues to rely on the subjective terminology quoted above.

It is our respectful request, on behalf of our client, that the Council initiate a new investigation as to appropriate regulation of noise in the Town of Niagara-on-the-Lake in order to bring into effect an enforceable by-law which offers protection to the citizens of the Town.

I would like to request delegation status to speak to the Council at its meeting on August 24, 2020 to amplify on this request.

Yours very truly,

SULLIVAN, MAHONEY LLP

Per: Milabon

Thomas A. Richardson, C.S.

Thomas Richardson Legal Professional Corporation

TAR:sm

cc-Mr. Peter Todd, Town Clerk

cc-Mr. Craig Larmour, Director of Community and Development Services

cc-Mr. Ed Werner