Dear Ms. Caterini:

Re: City of Hamilton Zoning By-law Amendments Nos. 17-095, 17-096 and proposed Draft Plan of Subdivision File 25T201605
Appeals on behalf of Harbour West Neighbours Inc. and Herman Turkstra
Sections 34(19) and 51(39) of the Planning Act
Our File No. 13235

We represent Harbour West Neighbours Inc. and Herman Turkstra, a North End Neighbourhood resident and property owner. Harbour West Neighbours Inc and Mr. Turkstra have been active in North End Neighbourhood planning issues since approximately 2003. Harbour West Neighbours is a private company providing corporate structure to a group of North End Neighbourhood residents and persons having an interest in planning for the neighbourhood.

These appeals relate to a City initiative to control and manage the development of Pier 8, one of the Piers owned by the City located on Hamilton’s Bayfront. Pier 8 is in the city’s North End Neighbourhood.

The North End neighbourhood is a well-defined, long established inner city neighbourhood with approximately 5000 residents including approximately 1000 children under the age of 15. It is characterized by small homes on small lots and is designated as a Child and Family Friendly Neighbourhood. The neighbourhood is an important civic asset. Residents of the neighbourhood tend to be more supportive of public transportation, are within easy walking distance of employment and GO transit. The neighbourhood has a full complement of schools, churches, health facilities and recreational facilities and has huge potential for providing quality housing for families in the inner city.

The contents of this communication are private and confidential, intended only for the recipient names above and are subject to lawyer and client privilege. It may not be copied, reproduced, or used in any manner without the express written permission of the sender. If you have received this communication and are not the intended recipient, please destroy it and notify the sender at 905 529-3476, collect if long distance. Thank you.
Attn: Ms. R. Caterini  
June 18, 2017

The City has a long standing record of attempting to develop the Bayfront lands in the North End neighbourhood in a fashion that consistently adversely impacts the adjacent neighbourhood residents.

This appeal, with the related appeals dealing with the planning for Piers 1 to 7 and to the appeal of North End neighbourhood residents of a by-law relating to control of unwanted noise from City owned or leased properties, will define the future of the North End neighbourhood. It is the appellants position that the zoning by-laws and draft plan of subdivision will harm the neighbourhood and reduce its potential to be home to a range of families with children and residents of all ages.

The grounds of appeal are as follows:

1. For reasons of geography, all vehicles going to Pier 8 will drive through the North End Neighbourhood. At one stage, the neighbourhood was characterized by the City as “The Corridor from the Gore to Shore”.

As part of the most recent Secondary Plan process, residents worked with the City to develop a strategy for managing the flow of traffic to the Bayfront. The approved secondary plan for the neighbourhood mandates that no development can be undertaken until the traffic plan has been implemented. The traffic plan has not been fully implemented. The appealed by-laws are premature.

2. As part of the Urban Design Study for Pier 8, residents worked with the City to develop a Vision Statement which was designed to provide comprehensive screening of new developments. While this was developed in a cooperative manner between the City and residents, the City chose not to apply it and as a result, the developments permitted by the appealed by-laws will contravene significant provisions in the approved Secondary Plan. For example, the Secondary Plan requires that all future development enhance the neighbourhood. In fact the development contemplated by the appealed by-laws will create increased traffic and parking issues for the neighbourhood and harm it.

3. Pier 8 was to be designed through one Urban Design study that incorporated Pier 7. That was not done. Pier 7 was planned with Piers 1 to 6. The separation of the urban design contravenes the approved secondary plan for the neighbourhood and all by-laws enacted as part of that severed process are illegal under the Planning Act.

4. There is nothing in the appealed by-laws that will ensure that a significant number of the new housing units are family friendly. The neighbourhood originally approved residential development for Pier 8 on the understanding that family friendly housing would be provided. That is not contemplated by the appealed by-laws.

5. The appealed by-laws will permit the construction of 1500 new housing units on Pier 8. The approved secondary plan was designed to provide for 750 to 1000 units. The increase in density does not comply with the approved Secondary Plan and the result of
the increased density will be a larger number of smaller units which fail to meet the test of family and affordable housing that was at the core of the approved Secondary Plan. Had the appealed by-laws proscribed family size units in significant number, the result would be to enhance the neighbourhood by adding children to support existing schools and recreational facilities.

6. While the City did undertake a form of public discussion, it was a surface treatment of a difficult and complex package of issues. The public involvement produced no changes in any of the City’s proposals. The process was a long distance away from the real public participation of the kind that produced the Secondary Plan and the traffic management strategy. The result is that the form and character of development contemplated by the appealed by-laws have not been subject to a serious or productive public participation process as contemplated by the Secondary Plan. At the heart of the conflict on this issue is the fact that the City is acting as owner, as developer, and as land use regulator with huge conflicting interests. The City has consistently refused to provide independent planning advice to the neighbourhood.

7. Residents have consistently taken the position that detailed subdivision and zoning should not be approved prior to development proposals being submitted. By proceeding with zoning by-laws and a draft plan of subdivision, the City has severely limited the ability of the private sector to make proposals that differ from the concepts of City Staff and City Council, neither of which have successful development experience. The result is that the City has stifled any opportunity for creativity on the part of the private sector and the result of the development calls will undoubtedly be pedestrian designs that do not reflect the unique development opportunity created by the removal of the existing buildings from Pier 8 and proposal calls from the private sector.

We are enclosing with this letter the presentation to City Council of the concerns of the Appellants.

We are also enclosing three cheques made payable to the Minister of Finance each in the amount of $300.00 for the appropriate appeal fees.

In our view, this case and the two other OMB appeals relating to West Harbour planning should be heard together and all would clearly benefit from a pre-hearing conference. It is also our view that this is an appropriate case for mediation.

Yours truly,

Scott Snider

SS:nd
Encl.
13235/21

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Councillor M. Pearson  
Chair,  
City of Hamilton Planning Committee  

Re Pier 8 Zoning and Subdivision  

Dear Councillor Pearson and Committee Members:  

Harbour West Neighbours Inc. is a group of mostly North End neighbourhood residents who have been involved in the planning for the waterfront since 2002. We have forwarded various submissions to you and your staff over the past year regarding Pier 8. We urge you to consider those submissions as part of your consideration of the staff report on the Zoning and Subdivision for Pier 8. We continue to have significant and major concerns about the City’s plans for Pier 8. Those concerns have been set out in our correspondence to you. To summarize they are as follows:  

1. The process has involved multiple studies but no organized stakeholder study. As a result you are being asked to rely virtually exclusively on the opinions of your staff and consultants. Stakeholder input has been minimum at best.  

2. Our request for the City to fund an independent planning review was not only rejected, but in a remarkable turn of events, the development branch of the Planning Department was funded for its own planner. A truly independent review of the proposals has not been made.  

3. The Urban Design Study did not take into account the requirements of Setting Sail and the staff report does not deal with all screening factors in the Vision Statement prepared by the public attending the “Store” meetings.  

4. Major traffic issues remain. The NETMP has not been implemented. The density has been virtually doubled with no improvements in traffic control on residential streets. The same applies to the increase in commercial. Instead of local commercial we now have a district shopping centre.  

5. We have not seen any data which would show that the proposed development will enhance the North End Neighbourhood. Adding some condos to our neighbourhood is not necessarily an enhancement.
6. Affordable and accessible housing, excellence in design, and a sense of beauty for our waterfront are not obviously required under the subdivision or zoning.

7. The VISION screening document has not been used by your staff.

We urge you to refer this report back to staff to convene a study group of the impacted stakeholders to assess the report and to provide independent third party planning review to assist in that study.

No other neighbourhood in Hamilton has the incredible volume of planning initiatives that are directed to our neighbourhood.

In terms of planning for the 8 year old resident of the North End neighbourhood, we cannot find her or him anywhere in the report.

That is a criteria we urge you to follow.

Yours truly,

Bryan Ritskes
President
Harbour West Neighbours.
Pier 8 Zoning + Subdivision

Herman Turkstra
500 Bay Street North, Hamilton, L8L 1N5
A final point about the study is that many of the discussions focused on anticipating future traffic studies is somewhat unique in that one of the objectives is to provide directions on the Pier 8 Traffic Management considerations are "should the development occur or not?" The North End Traffic Management often when new developments are proposed adjacent to existing communities, the only problem is that problems do not occur. All too practically implementing solutions in advance so that problems do not occur. A final point about this tip: it takes about 3 minutes to drive from one side of the North End to the other, adding another 30 seconds is not going to make or break someone's trip. They are travelling through a residential community. As one resident summed it up, "It is not the fact that they are travelling through a residential area that is not to penalize traffic. An important clarification is that the traffic is not to penalize traffic. By, among other things, slowing down traffic. An important element of the Vision is to create pedestrian-friendly streets by, among other things, slowing down traffic. Once the key elements of the Vision is to create pedestrian-friendly community near downtown Hamilton. One of the key elements of the Vision is to create pedestrian-friendly community near downtown Hamilton.
We have a problem

Let's work together to find the solution.
Process After 2012

- We will tell you what the City Staff have decided.
- Do you have any comments?

Total meetings with Waterfront Stakeholders 2012 to 2014 – ZERO
Total Meetings with Development Industry 2012 tp 2014 - Lots
The Pier 8 Vision Statement:

The One Stakeholder Decision:
## A Clear, unambiguous easy to follow checklist Designed for you.

- **NEIGHBOURHOOD**
  - Continue to grow and to strengthen existing neighbourhoods.

- **ENVIRONMENT**
  - Promote a healthy harbour.
  - Employ "Test practice" techniques for water management to maintain water on the working coastal area and ensure sustainability.

- **PUBLIC ACCESS**
  - Provide safe and continuous public access along the water's edge.
  - Land at the water's edge to a depth that can accommodate a trail, promenade, or other desired open space or public facility, must be an ecological perspective.

- **WATERFRONT**
  - Create a diverse waterfront including open marine recreation, commercial, and residential.

---

**Not In Report.**
What’s Wrong:

1. Wrong time to do zoning and subdivision – stifle innovation and creativity
2. Overbuilding
3. Directs traffic to residential streets
4. No affordable or family priority
5. No integration with existing community
6. No thorough group study by stakeholders (more consultants)
7. Predictable outcome.
Predictable Outcome

This is what you can get

Plains Road Aldershot – Minus a couple of stories.
Plan for the 8 year olds and everything works
## Part 1: Appeal Type (Please check only one box)

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## Part 2: Location Information

Pier 8 65 Guise Street East, Hamilton
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Hamilton
Part 3: Appellant Information

First Name: Harbour West Neighbours Inc and Herman Turkstra
Last Name: Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

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 #: Alternate Telephone #:

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: Scott Last Name: Snider
Company Name: Turkstra Mazza Associates
Professional Title: Lawyer
E-mail Address: ssnider@tmalaw.ca

Daytime Telephone #: 905.529.3476 Alternate Telephone #:
Fax #: 905.529.3663

Mailing Address: 15 Bold Street Hamilton Street Address Apt/Suite/Unit# City/Town Ontario L8P 1T3 Province Country (if not Canada) Postal Code

Signature of Appellant: Date: June 18, 2017

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)

Draft Plan of Subdivision File 25T201605

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 Covering 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:

(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.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

   a. No - ☐
   b. Yes ☐

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? 2

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

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? To address complexity of issues.

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

See Attached Covering Letter.

Part 10: Required Fee

Total Fee Submitted: $ 300.00

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.
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A1 Revised 01/2017
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Last Name: Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation)

Professional Title (if applicable):

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.)

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

First Name: Scott 
Last Name: Snider 

Company Name: Turkstra Mazza Associates 

Professional Title: Lawyer 

E-mail Address: ssnider@tmalaw.ca 

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

Daytime Telephone #: 905.529.3476 Alternate Telephone #: 

Fax #: 905.529.3663 

Mailing Address: 15 Bold Street 

Street Address 

Apt/Suite/Unit# 

City/Town 

Ontario 

L8P 1T3 

Province 

Country (if not Canada) 

Postal Code 

Signature of Appellant: 

Date: June 18, 2017 

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City of Hamilton Zoning By-law Amendments No. 17-095.

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.

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See Attached Covering letter.

THE FOLLOWING SECTIONS (a&b) APPLY ONLY TO APPEALS OF ZONING BY-LAW AMENDMENTS UNDER SECTION 34(11) OF THE PLANNING ACT.

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(If application submitted before January 1, 2007 please use the O1 ‘pre-Bill 51’ form.)

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a. No - √

b. Yes

Part 7: Related Matters (if known)

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Are there other planning matters related to this appeal? YES ☑ NO  

(For example: A consent application connected to a variance application)

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2

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Planning & Traffic

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- YES  
- NO

(Mediation is generally scheduled only when all parties agree to participate)

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- YES  
- NO

(Prehearing conferences are generally not scheduled for variances or consents)

If yes, why?  
To address complexity of issues.

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<td>Appeal the passing of an Interim Control By-law</td>
<td>38(4)</td>
</tr>
<tr>
<td></td>
<td>Appeal a decision</td>
<td>17(24) or 17(36)</td>
</tr>
<tr>
<td></td>
<td>Failed to make a decision on the plan within 180 days</td>
<td>17(40)</td>
</tr>
<tr>
<td>Official Plan or</td>
<td>Application for an amendment to the Official Plan – failed to make a decision on the application within 180 days</td>
<td>22(7)</td>
</tr>
<tr>
<td>Official Plan Amendment</td>
<td>Application for an amendment to the Official Plan – refused by the municipality</td>
<td></td>
</tr>
<tr>
<td>Plan of Subdivision</td>
<td>Appeal a decision</td>
<td>51(39)</td>
</tr>
<tr>
<td></td>
<td>Appeal conditions imposed</td>
<td>51(43) or 51(48)</td>
</tr>
<tr>
<td></td>
<td>Failed to make a decision on the application within 180 days</td>
<td>51(34)</td>
</tr>
</tbody>
</table>

### Part 2: Location Information

Pier 8 65 Guise Street East, Hamilton
Address and/or Legal Description of property subject to the appeal:

Municipality/Upper tier: City of Hamilton
Part 3: Appellant Information

First Name: Harbour West Neighbours Inc and Herman Turkstra
Last Name:

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

Professional Title (if applicable):

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:
Signature of Appellant: Date:

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: Scott Last Name: Snider
Company Name: Turkstra Mazza Associates
Professional Title: Lawyer
E-mail Address: ssnider@tmalaw.ca By providing an e-mail address you agree to receive communications from the OMB by e-mail.
Daytime Telephone #: 905.529.3476 Alternate Telephone #:
Fax #: 905.529.3663
Mailing Address: 15 Bold Street Hamilton
Signature of Appellant: Date: June 18, 2017

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.

A1 Revised 01/2017
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)

City of Hamilton Zoning By-law Amendments No. 17-096.

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 Covering 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:

(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.

Bill 73 - This question applies only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016.

1. Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?
   a. No - ✓
   b. Yes

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?  
2

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

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?  
To address complexity of issues.

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

See Attached Covering Letter.

Part 10: Required Fee

Total Fee Submitted: $300.00

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.