



## THE REGIONAL MUNICIPALITY OF NIAGARA SPECIAL COUNCIL ORDER OF BUSINESS

CL 7-2021

Thursday, April 22, 2021

4:00 p.m.

Meeting will be held by electronic participation only

This electronic meeting can be viewed on Niagara Region's Website at:

<https://www.niagararegion.ca/government/council/>

Due to the efforts to contain the spread of COVID-19 the Council Chamber will not be open to the public to attend Council meetings until further notice. To view live stream meeting proceedings, please visit: [niagararegion.ca/government/council](https://www.niagararegion.ca/government/council/)

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### Pages

1. CALL TO ORDER
2. ADOPTION OF AGENDA
3. DISCLOSURES OF PECUNIARY INTEREST
4. PUBLIC MEETING TO HEAR A COMPLAINT UNDER SECTION 20 OF THE DEVELOPMENT CHARGES ACT, 1997
  - 4.1. Development Charge Complaint - 260/270 Hunter Road, Grimsby
    - 4.1.1. Opening Comments - Hearing Procedure
    - 4.1.2. Speakers to the Matter
      - 4.1.2.1. Riccardo Persi, LiUNA, and Matt Johnston, Principal, Urban Solutions 3 - 13
    - 4.1.3. Item for Consideration
      - 4.1.3.1. CSD 26-2021 14 - 21  
Regional Development Charges Complaint
  - 4.2. Adjournment of the Public Meeting

## 5. CORRESPONDENCE

### 5.1. For Information

- 5.1.1. CL-C 28-2021 22 - 27  
Responsibilities of the Board of Health

### 5.2. For Consideration

- 5.2.1. *CHR 2-2021* 28 - 29  
Options for Consideration in regards to CL-C 28-2021

## 6. BY-LAWS

- 6.1. Bill 2021-22 30  
A by-law to adopt, ratify and confirm the actions of Regional Council at its special meeting held on April 22, 2021.

## 7. ADJOURNMENT

If you require any accommodations for a disability in order to attend or participate in meetings or events, please contact the Accessibility Advisor at 905-980-6000 ext. 3252 (office), 289-929-8376 (cellphone) or [accessibility@niagararegion.ca](mailto:accessibility@niagararegion.ca) (email).



# URBAN SOLUTIONS

PLANNING & LAND DEVELOPMENT







# Development Charges – Request to Reconsider 260 & 270 Hunter Road

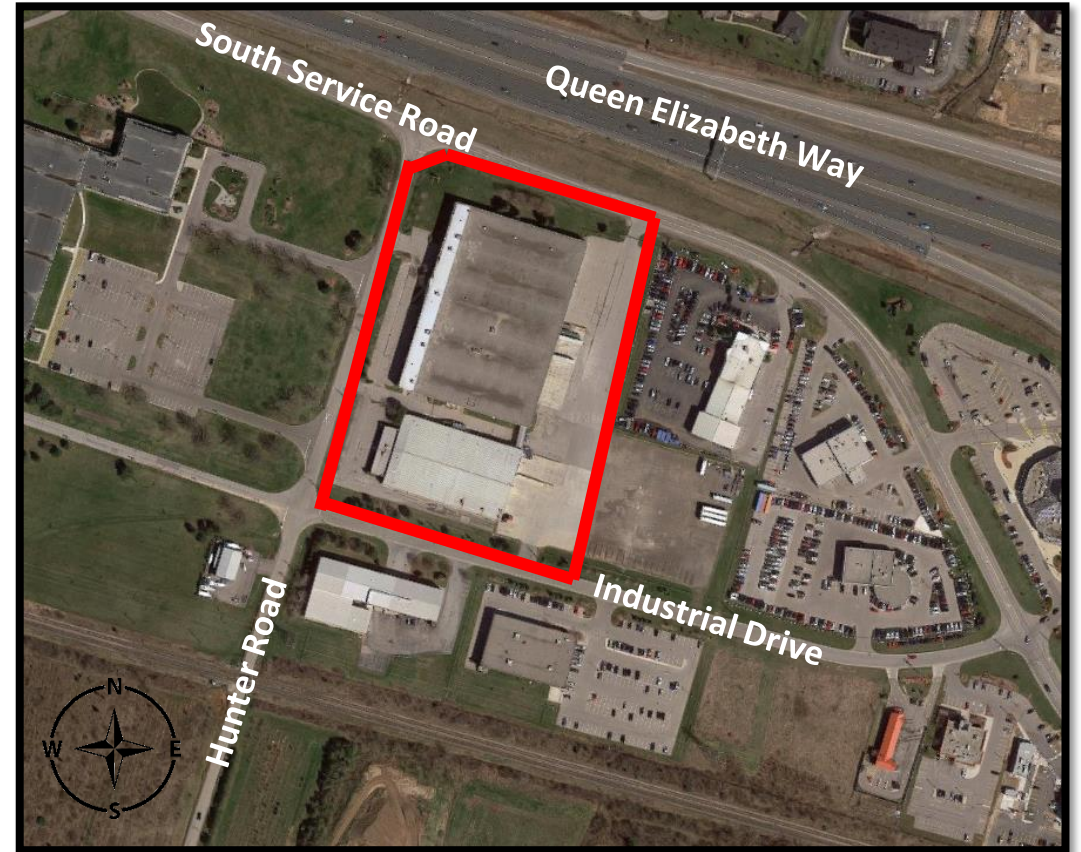
**Owner/Applicant:** 34 West Avenue N Hamilton Inc. c/o LIUNA

**Agent:** UrbanSolutions Planning & Land Development Consultants Inc. (c/o Matt Johnston)



# SUBJECT LANDS

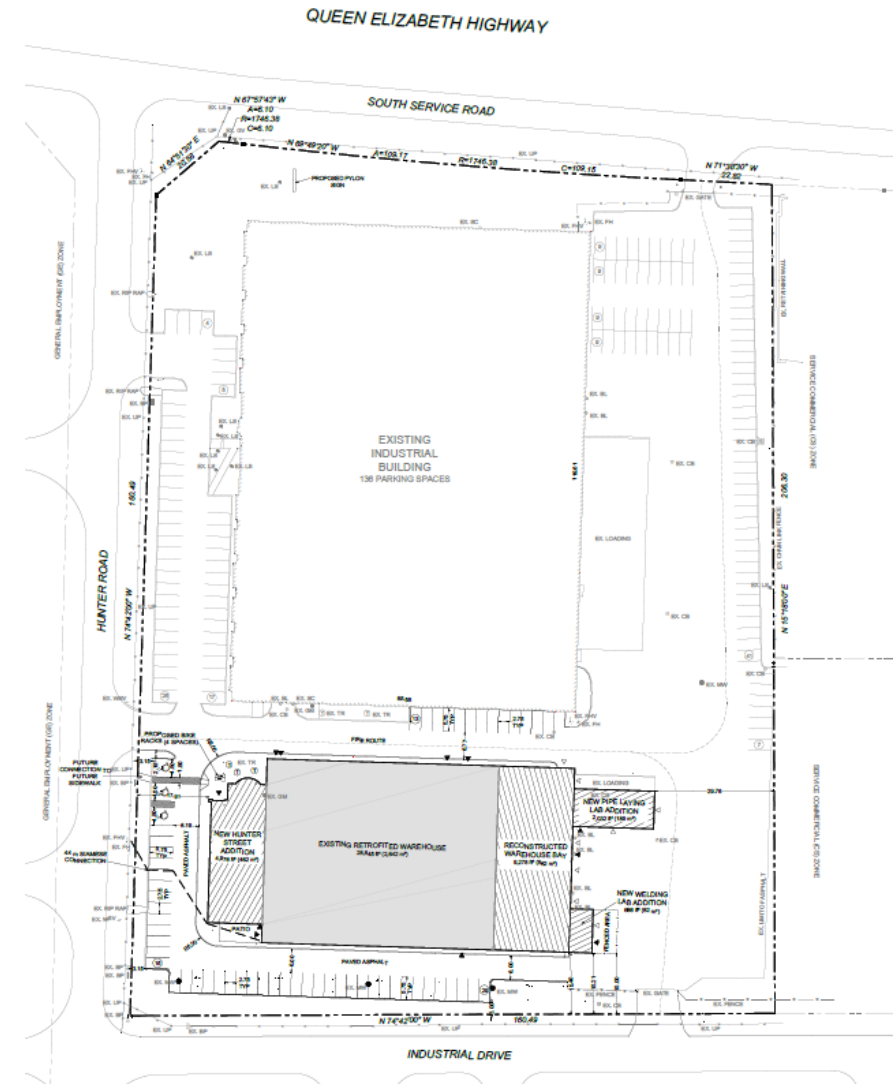
- **Site Area:** 3.32 ha (8.20 acres)
- **Location:** 260 & 270 Hunter Road
- Lands are currently occupied by two (2) commercial buildings fronting onto Hunter Road





# SITE PLAN AMENDMENT

- Existing Building – 43,841 sq. ft.
- Proposed Addition – 3,358 sq. ft.
- Total GFA – 47,038 sq. ft.
- Classrooms, Library, Auditorium, Café – 20,311 sq. ft.
- Workshop/Warehouse Training Area – 26,727 sq. ft.







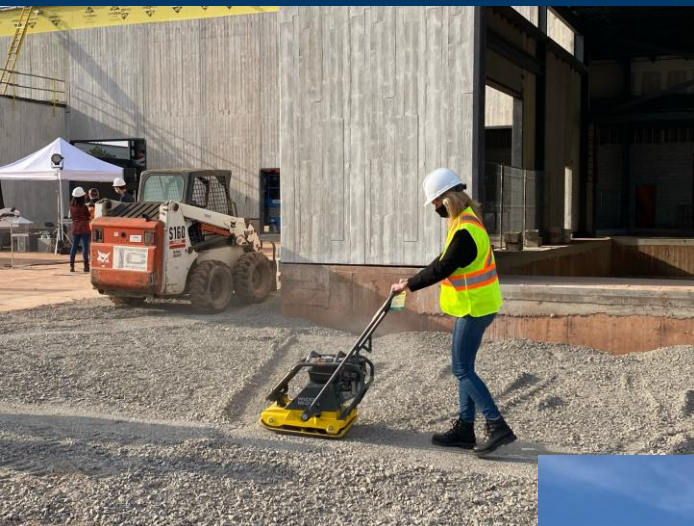
# LiUNA Local 837

- Laborers' International Union of North America
- LiUNA Local 837 was first chartered on June 18, 1950, today the local represents 4,000 workers in the Hamilton-Niagara Region.
- Over the years LiUNA Local 837 has become well-known throughout the community, have been involved in non-profit-housing initiatives, banquet and conference centres, and long-term care facilities; creating employment opportunities and training programs.
- LiUNA has 32 training courses in Cambridge, Stoney Creek and St. Catharines which helps employers compete with higher productivity and quality, and at the same time, help workers earn more and work safely on the job.
- This new facility will provide training for approximately 5,000 workers annually.





# LiUNA Local 837



**LiUNA!**  
Local 837





# CHRONOLOGY

May 18, 2017	Pre-Consultation Meeting for Zoning By-law Amendment
November 20, 2017	Zoning By-law Amendment Approved
December 16, 2019	Site Plan Amendment Approved
March 6, 2020	Development Charges Paid in the Full Amount
June/July, 2021	Training Facility to Open



# Development Charge Calculation

Calculation for DC Paid	DC Rate	Square Footage	Calculated DC
Region – Conversion from Industrial to Non-Industrial	\$3.72/sq.ft	43,714sq.ft	\$162,616.08
Region - New Non-Industrial Use	\$8.89/sq.ft	3,358sq.ft	\$29,852.62
Total			\$192,468.70

Requested Calculation for DC	DC Rate	Square Footage	Calculated DC
Region – Conversion from Industrial to Non-Industrial	\$3.72/sq.ft	14,111.49sq.ft	\$52,494.74
Region - New Non-Industrial Use	\$8.89/sq.ft	3,358sq.ft	\$29,852.62
Total			\$82,347.36



# Regional Development Charge Calculation

Regional Development Charge Paid	\$192,468.70
Requested Regional Development Charge	\$82,347.36

Difference

Conversion of 43,714 sq. ft. from Industrial to Non-Industrial

Or

Conversion of 14,111.49 sq. ft. from Industrial to Non-Industrial





# Industrial VS Non-Industrial

- Construction Training for 5,000 works annually
- Training for Working at Heights, Elevating Work Platform, Forklift Operator, Skidsteer Loading, Health and Safety, Propane, Traffic Control, Mason, Forming, Hand Tools, Sand Blasting, Blueprint Reading
- The Training Centre is for construction related industrial activities.
- On there own, each activity is an industrial one, but because it is being taught, it is inflating the Development Charge as a Non-Industrial Use.



# THANK YOU

**LiUNA!**  
*Local 837*

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**Subject:** Regional Development Charges Complaint

**Report to:** Regional Council

**Report date:** Thursday, April 22, 2021

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## Recommendations

1. That the complaint filed with respect to the Regional Development Charges payable pursuant to Section 20 of the Development Charges Act, 1997, for the property located at 260/270 Hunter Road, Grimsby, **BE DISMISSED** by Regional Council.

## Key Facts

- The purpose of this report is to provide background information for a Region Development Charge (RDC) complaint received March 9, 2020 that was filed with the Region by Owens Wright Lawyers on behalf of their client 34 West Avenue North (Hamilton) Incorporated (the complainant) for a proposed institutional development/re-development located at 260 & 270 Hunter Road, Grimsby.
- Section 20 of the Development Charges Act (DCA), 1997, allows for a person required to pay a RDC to complain to the council of the municipality imposing the DC that the amount of the RDC was incorrectly determined or that there was an error in the application of the By-law.
- Regional Council is required to hold a hearing for the consideration of this complaint, and will be acting as a tribunal and exercising quasi-judicial powers as per the process outlined in report CSD 12-2018.
- The complainant has asserted that a portion of an existing building on site should be retained as an industrial use after the re-development instead of an institutional use as was assessed for the purposes of RDC. This would result in a reduction in RDC payable from \$192,468.70 to \$82,347.36 (a difference of \$110,121.34).
- Region staff have reviewed the complaint and have confirmed that there has been no error in the DC calculation or application of the By-law, and therefore the complainant is not eligible for relief under the DCA.
- The original complaint was filed within the legislated timelines and a hearing was to be scheduled in accordance with the DCA. The complainant however, requested that the Council hearing be deferred until COVID-19 restrictions permitted in person meetings. The complainant has recently requested that the Council hearing proceed virtually as there is no definitive timeline for in person Council meetings to resume.



## Financial Considerations

Under the Region's current DC By-law, passed November 16, 2017, the amount payable for the development/re-development of land located at 260 & 270 Hunter Road, Grimsby is \$192,468.70 (2020 rates). The complainant is seeking relief in the amount of \$110,121.34 as they have alleged that a portion of their project should remain as an industrial use post conversion. The complainant has made payment of the RDC to the Town on March 6, 2020 and has been since issued the applicable permits. The development received a conversion credit for converting the existing industrial building to institutional use (i.e., 43,714 sq. ft.) in the amount of \$226,001 which was deducted from the gross RDC payable. The below table summarizes the RDCs as confirmed by the Region and charged by the Town and the amount as determined by the complainant.

**Table 1 – Summary of Regional Development Charges Payable**

	<b>Region</b>	<b>Complainant</b>	<b>Amount Disputed</b>
Building Area (square feet)			
Industrial to Institutional	43,714	14,111*	
New Institutional	3,358	3,358	
Total	47,072	17,469	
Institutional Regional DC Rate	\$8.89	\$8.89	
<b>Gross Regional DC</b>	<b>\$418,470</b>	<b>\$155,304</b>	<b>\$263,166</b>
Conversion Credit (square feet)			
Industrial to Institutional	43,714	14,111	
Industrial Regional DC Rate	\$5.17	\$5.17	
<b>Conversion Credit Total</b>	<b>\$226,001</b>	<b>\$72,956</b>	<b>\$153,045</b>
<b>Regional DC Payable</b>	<b>\$192,469</b>	<b>\$82,347</b>	<b>\$110,121</b>

\* Complainant alleges the difference of 29,603 sq. ft. is to be retained as industrial, therefore, not factored into calculation for complainant totals.

## Analysis

The purpose of this report is to respond to a complaint submitted under section 20 of the DCA, by 34 West Avenue North (Hamilton) Incorporated (the complainant) on March 9, 2020 for a proposed development located at 260 & 270 Hunter Road, Grimsby. A copy of which is attached as **Appendix 1**.

As noted in Appendix 1, the complainant has alleged that the amount of development charges was incorrectly determined. The Town of Grimsby Building staff indicated that the complainant was issued a building permit on March 6, 2020 for a conversion and expansion of a former industrial use property to an institutional use and made payment of RDC at that time of \$192,469.70. At the time of building permit application the complainant indicated that the facility would be used for training and that no manufacturing (as defined in the industrial use definition from RDC bylaw) would be occurring on site in either the converted or to be constructed building.

Region staff have reviewed the RDC calculation and information submitted by both Town and complainant and has determined that the DC By-law has been administered correctly resulting in correct RDC payable of \$192,469.70 upon building permit issuance.

The definition of an institutional and industrial use from the RDC bylaw can be summarized as follows:

- “‘institutional’ means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and offices where such uses are accessory to an institutional use”.
- “Industrial” means land, buildings or structures used for or in connection with manufacturing by, inter alia, manufacturing, producing, and processing goods for a commercial purpose on site.

Based on the information obtained from the complainant and the Town, Region staff conclude that the RDC payable for the development/re-development were accurately calculated and classified by Town building staff at time of permit issuance. The proposed re-development does not constitute an industrial use under the current RDC bylaw as there is no manufacturing to occur on site. Since the structure was converted from industrial use, the complainant was eligible and received a conversion credit of \$226,001 which was deducted from the gross RDC payable. Preliminary discussion

between staff and the complainant's planning consultant from the time of complaint submission did not result in any clarification as to why the property should remain industrial for the purpose of RDC administration.

The original complaint was filed within the legislated timelines and a hearing was to be scheduled in accordance with the DCA. The complainant however, requested that the Council hearing be deferred until COVID-19 restrictions permitted in person meetings. The complainant has recently requested that the Council hearing proceed virtually as there is no definitive timeline for in person Council meetings to resume.

Under the DCA, the complaint must contain and allege, as a reason for the complaint, one or more of the following:

1. The amount of the development charge was incorrectly determined;
2. Whether a credit is available to be used against the development charge, or the amount of the credit or the service with respect to which the credit was given, was incorrectly determined; or
3. There was an error in the application of the development charge by-law.

Notwithstanding that the complaint does not fall within the three items noted above, staff have prepared the following information as provided by the complainant and the Town:

- The complainant applied for the necessary permit to convert the existing building from its industrial use into an institutional use (area of 43,714 sq. ft.) as well as to construct a new institutional building on site (area of 3,358 sq. ft.).
- The complainant has stated that the intended use of the facility is for training of trades and will be occupied by a labour union for that purpose.
- The complainant believed that a portion of the existing facility (approximately 29,602 sq. ft. of the 43,714 sq. ft.) should remain as an industrial use after the conversion as a result of the training activities to take place onsite (i.e., forklift operators training, etc.).
- If the 29,602 sq. ft. area were to remain as industrial, the development charges payable would be reduced by \$110,121 as per Table 1.
- The Town has indicated that the former use of the existing building, prior to any modifications or change of use by the current owner, is industrial as defined in the RDC bylaw. The full definition of industrial use from the RDC bylaw can be found in **Appendix 2**.



## **Alternatives Reviewed**

There are no alternatives available under existing legislation.

## **Relationship to Council Strategic Priorities**

Regional Development Charges are a major source of funding for growth projects in the capital budget. As such, Regional Development Charges assist in achieving the strategic priorities of a fiscally sustainable government.

## **Other Pertinent Reports**

None.

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### **Prepared by:**

Rob Fleming, MBA  
Senior Tax & Revenue Analyst  
Corporate Services

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### **Recommended by:**

Todd Harrison, CPA, CMA  
Commissioner/Treasurer  
Corporate Services

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### **Submitted by:**

Ron Tripp, P.Eng.  
Acting Chief Administrative Officer

*This report was prepared in consultation with Margaret Murphy, Associate Director, Budget Planning & Strategy and reviewed by Donna Gibbs, Director Legal & Court Services, and Helen Chamberlain, Director Financial Management & Planning/Deputy Treasurer.*

## **Appendices**

Appendix 1	Regional Development Charges Complaint Form
Appendix 2	Regional Development Charge By-law Definitions



March 5, 2020

Randy H. Lebow  
Direct: 416.848.4707  
rlebow@owenswright.com

Regional Municipality of Niagara  
1815 Sir Isaac Brock Way  
Thorold, ON L2V 4T7

**DELIVERED BY COURIER & REGISTERED MAIL**

**RECEIVED MAR 09 2020**

Niagara Region Clerk's Office

Original to: CS: R. Fleming

Attention: Ann-Marie Norio-Regional Clerk

Dear Ms. Norio

**RE: 260 & 270 Hunter Road, Grimsby, Ontario  
Development Charges Complaint  
Town File No. 26SP-16-1811**

CAO	<input type="checkbox"/>	ICP	<input type="checkbox"/>
Chair	<input type="checkbox"/>	Legal Asst	<input type="checkbox"/>
Comm. Ser.	<input type="checkbox"/>	Legal	<input type="checkbox"/>
Corp. Ser.	<input type="checkbox"/>	NRH	<input type="checkbox"/>
Councillors	<input type="checkbox"/>	Public Health	<input type="checkbox"/>
HR	<input type="checkbox"/>	Public Works	<input type="checkbox"/>
File: _____		Initials: <u>RF</u>	

We are the solicitors for 34 West Avenue North (Hamilton) Incorporated, owner of the subject lands. Today, UrbanSolutions Planning & Land Development Consultants Inc. submitted the sum of \$220,541.58 to the Town of Grimsby on behalf of our client as payment of the Development Charges related to the subject site plan application.

Of this amount, \$192,468.70 is allocated to the Region and it is the owner's position that the amount of the development charge was incorrectly determined. In keeping with Section 20(1) of the Development Charges Act, 1997, please accept this letter as a formal complaint. As required by Section 20(3), the reasons for the appeal are outlined below:

The Region of Niagara applied the following calculation in determining the amount of the Development Charge:

Conversion of Industrial to Non-Industrial Use:	43,714 square feet x \$3.72 = \$162,616.08
New Non-Industrial Use:	3,358 square feet x \$8.36 = \$29,852.62
<b>Total</b>	<b>\$192,468.70</b>

The amount of \$162,616.08 was not calculated correctly as because 14,111.49 square feet, not 43,714 square feet were converted to a Non-Industrial Use. Applying the correct floor area to be converted reduces that portion from \$192,468.70 to \$52,494.74. While it is agreed that a conversion from an Industrial to a Non-Industrial Use is taking place in the establishment of the new training facility, much of the Industrial use will be retained given the nature of the activities being conducted within.

OWENS WRIGHT LLP

Page 2

As required by Section 20(5), we look forward to receiving notice of the hearing. Please feel free to contact the undersigned with any comments or questions.

Yours very truly,

**OWENS WRIGHT LLP**



Randy H. Lebow\*

RHL/

\*on behalf of RANDY H. LEBOW PROFESSIONAL CORPORATION

Encls.

cc. Robert Fleming, Region of Niagara by email: [Robert.Fleming@niagararegion.ca](mailto:Robert.Fleming@niagararegion.ca)  
Riccardo Persi, 34 West Avenue North (Hamilton) Incorporated  
Messers. Sergio Manchia & Matt Johnston, UrbanSolutions

**Definitions From Regional Development Charge By-law 2017-98:**

“industrial use” means land, buildings or structures used for or in connection with manufacturing by:

- a) manufacturing, producing, and processing goods for a commercial purpose, as well as storing and/or distribution of goods manufactured, produced or processed on site;
- b) research or development in connection with manufacturing, producing or processing good for a commercial purpose;
- c) retail sales by a manufacturer, producer or processor of goods they manufactured, produced or processed, if the retail sales are at the site where the manufacturing, production or processing takes place;
- d) office or administrative purposes, if it is:
  - (i) carried out with respect to manufacturing, producing, processing, storage or distributing of something; and
  - (ii) in or attached to the building or structure used for that manufacturing, producing, processing, storage or distribution;

“institutional” means lands, buildings or structures used or designed or intended for use by an organized body, society or religious group for promoting a public or non-profit purpose and offices where such uses are accessory to an institutional use.

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## MEMORANDUM

CL-C 28-2021

**Subject: Responsibilities of the Board of Health**

**Date: April 22, 2021**

**To: Regional Council**

**From: Donna Gibbs, Director, Legal & Court Services, and Ann-Marie Norio, Regional Clerk**

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This memo is provided in response to the request made by Councillor Foster at the Public Health and Social Services Committee meeting held on April 13, that Staff provide information respecting the legal obligations of the Board of Health, how it is governed and its relationship to the province.

Regulation 553 under the [Health Protection and Promotion Act, R.S.O. 1990, c. H.7 \(ontario.ca\)](#) (Act) designates "The Regional Municipality of Niagara" as the health unit for this area and Section 474.21 of the *Municipal Act* provides that "A regional municipality, except The District Municipality of Muskoka, has the powers, rights and duties of a board of health under the *Health Protection and Promotion Act*". As a result Regional Council, as the governing body of the Region, is effectively the Board of Health (BOH) for the Region of Niagara.

As a practical matter, Regional Council has historically (through By-law No. 3521-84 as amended by By-law No.87-2009, attached as Appendix 1), delegated responsibility to a Standing Committee (currently the Public Health and Social Services Committee) to investigate, report and recommend to Council on all matters related to public health (with Council acting as final approver). The membership of the Standing Committee is determined by Council.

The Act contains a number of provisions dealing with duties/role of the BOH. In essence the BOH is responsible for the local administration and implementation of public health programs and services under the Act and in accordance with the Ministry of Health's Ontario Public Health Standards and Protocols (available via the following link: [Ontario Public Health Standards - Programs and Services - Health Care Professionals - MOH \(gov.on.ca\)](#)).

The primary functions of the BOH are to provide good governance and strategic leadership to the organization. The responsibility for the day-to-day management and operations of the health unit lies with the Medical Officer of Health (MOH) appointed by the BOH (with the approval of the Ministry of Health). The BOH:

- establishes general policies and procedures which govern the operation of the health unit;
- upholds provincial legislation governing the mandate of the BOH under the Act;
- provides accountability to the community by ensuring that its health needs are addressed by the appropriate programs and ensuring that the health unit is well managed;
- hires the MOH and associate medical officer(s) of health with approval of the Minister;
- provides necessary budget and financial approvals;
- ensures program quality and effectiveness and financial viability; and,
- establishes overall objectives and priorities for the organization in its provision of health programs and services, to meet the needs of the community.

The Association of Local Public Health Agencies prepared a (2018) Orientation Manual for Boards of Health that may be a useful reference for Council that is available via the following link: [https://cdn.ymaws.com/alphaweb.site-ym.com/resource/resmgr/boh\\_file/boh\\_orientation\\_manual.pdf](https://cdn.ymaws.com/alphaweb.site-ym.com/resource/resmgr/boh_file/boh_orientation_manual.pdf). The manual provides guidelines for members of a BOH, including that a member of a BOH should:

- commit to and understand the purpose, policies and programs of the health unit;
- attend board meetings, and actively participate on committees and serve as officers;
- actively participate in setting the strategic directions for the organization;
- acquire a clear understanding of the financial position of the health unit and ensure that the finances are adequate and responsibly spent;
- serve in a volunteer capacity without regard for remuneration or profit;
- be able to work and participate within a group, as a team;
- be supportive of the organization and its management;
- know and maintain the lines of communication between the board and staff;
- take responsibility for continuing self-education and growth;
- represent the public health in the community;
- be familiar with local resources;
- be aware of changing community trends and needs;
- attend related community functions;
- have a working knowledge of parliamentary procedure; and
- be aware of the definition of conflict of interest and when to declare it.



Given that Council is effectively the BOH, there is no mechanism for Council to remove a member of the BOH/Council (although Council does determine who is a member of the PHSSC).

However if a Councillor or a member of the public has a complaint regarding the conduct of a member of the BOH/Council it can be addressed through the Region's [Code of Conduct for Members of Council - Niagara Region, Ontario](#). Information concerning the complaint process for the Code of Conduct is on the Region's website via the following link: [Submitting a Complaint to the Office of the Integrity Commissioner - Niagara Region, Ontario](#).

Of note, the Province is currently undertaking a 90 day consultation period to obtain feedback on how to strengthen municipal codes of conduct. Further information in this regard is available via the following link: [Consultation: Strengthening accountability for municipal council members | Ontario.ca](#)

Respectfully submitted and signed by

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Donna Gibbs  
Director, Legal & Court Services

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Ann-Marie Norio  
Regional Clerk

Bill 3481

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 3521-84

BEING A BY-LAW CONCERNING HEALTH  
SERVICES IN THE REGIONAL MUNICI-  
PALITY OF NIAGARA

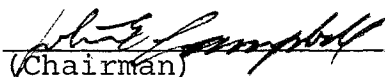
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WHEREAS the Regional Municipalities Amendment Act, Statutes of Ontario, 1983, Chapter 72, dissolved the Niagara Regional Board of Health and the Regional Corporation is to stand in the place and stead of the Board of Health with all powers and rights of the Board of Health under The Public Health Act,

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. There is established a standing committee of Regional Council to be known as the Health Services Committee whose duties and responsibilities shall be to carry out the requirements of The Public Health Act, The Health Protection Act and all other related statutes.
2. That the Medical Officer of Health shall be the head of the Health Services Department and shall perform such duties as are required of him by statute and as may be assigned to him by Regional Council.
3. Every person who is employed by the Regional Board of Health on the 31st day of December, 1983, is an employee of the Regional Corporation on the same terms and conditions as prevailed at the Regional Board of Health on the 31st day of December, 1983.
4. The Health Services Committee has power to inquire into and report to Council on any matter over which the Council has power under Part VIII of the Regional Act, The Public Health Act and The Health Protection and Promotion Act, and generally shall be responsible to Regional Council to investigate and report and recommend to Council on all matters related to public health in the Regional area, and any other matter referred to it by the Council.
5. That this by-law shall come into force and take effect on the first day of January, 1984.

THE REGIONAL MUNICIPALITY OF NIAGARA

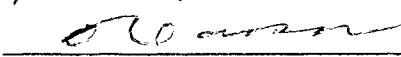
  
(Chairman)

Read a first time: January 5, 1984

Read a second time: January 5, 1984

Read a third time

and finally passed: January 5, 1984

  
(Clerk)

Bill 87

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 87- 2009

BEING A BY-LAW TO AMEND BY-LAW NO. 3521-84  
BEING A BY-LAW CONCERNING HEALTH SERVICES  
IN THE REGIONAL MUNICIPALITY OF NIAGARA

WHEREAS on January 5, 1984, the Council of the Regional Municipality of Niagara ("Regional Corporation") passed By-law 3521-84 concerning health services in the Regional Municipality of Niagara;

AND WHEREAS it is desirable to amend By-law 3521-84 to reflect changes in legislation and changes in the Committee structure of the Regional Corporation;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That By-law 3521-84 is amended as follows:

1.1 The following recital is added after the first recital:

"AND WHEREAS Section 474.21 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, now provides that the Regional Municipality of Niagara has the powers, rights and duties of a board of health under the *Health Protection and Promotion Act*, R.S.O. 1990, c. H.7, as amended."

1.2 Section 1 is repealed and the following is substituted therefor:

"There is established a standing committee of Regional Council to be known as the Public Health and Social Services Committee whose duties and responsibilities shall be to carry out the requirements of the *Health Protection and Promotion Act* and all other related statutes."

1.3 Section 2 is repealed and the following is substituted therefor:

"That the Medical Officer of Health shall be the head of the Public Health Department and shall perform such duties as are required of him/her by statute and as may be assigned to him/her by Regional Council."

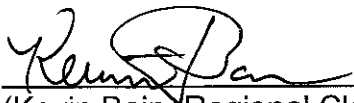
- 1.4 Section 4 is repealed and the following is substituted therefor:

"The Public Health and Social Services Committee has power to inquire into and report to Regional Council on any matter over which it has power under Section 474.21 of the *Municipal Act, 2001*, and the *Health Protection and Promotion Act*, and generally shall be responsible to Regional Council to investigate and report and recommend to Regional Council on all matters related to public health in the Regional area, and any other matter referred to it by Regional Council."

2. That this by-law shall come into force on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

  
\_\_\_\_\_  
(Peter Partington, Regional Chair)

  
\_\_\_\_\_  
(Kevin Bain, Regional Clerk)

Passed: October 22, 2009.



## Office of the Regional Chair | Jim Bradley

1815 Sir Isaac Brock Way Thorold, ON L2V 4T7

Telephone: 905-980-6000 Toll-free: 1-800-263-7215 Fax: 905-685-6243

Email: [jim.bradley@niagararegion.ca](mailto:jim.bradley@niagararegion.ca)

[www.niagararegion.ca](http://www.niagararegion.ca)

# Memorandum

CHR 2-2021

**TO:** Regional Council

**FROM:** Jim Bradley, Regional Chair

**DATE:** April 22, 2021

**SUBJECT:** Options for Consideration in regards to CL-C 28-2021

I wish to provide the following comments to Council in advance of consideration of item CL-C 28-2021 in acknowledgement of the fact that the context that led to the request for this memo was the participation by a member of Council in a public demonstration on Saturday, April 10, 2021 that occurred during a provincial stay-at-home order.

As we engage in discussion, I would remind Councillors that we are all entitled to fairness and due process under both the *Municipal Act, 2001* and the Niagara Region's Code of Conduct for Members of Council. Councillors are also reminded that respect should be shown at all times, and that our meetings should not be used as a forum to demean or publicly disparage a colleague, even if you take serious exception to certain conduct.

I fully expect that members of Council may wish to contribute to this afternoon's discussion. I would strongly encourage members to ensure their comments are conducted through the Chair and made in a respectful manner, ensuring decorum is maintained. Members should extend the same courtesy to their colleagues that they would expect be extended to themselves.

### Addressing the Provisions in the Municipal Act

As all of you know, the Niagara Region is subject to all the provisions outlined in the *Municipal Act, 2001*. As such, Niagara Region is required to have both a code of conduct, as well as employ the services of an Integrity Commissioner. Members of the public or Councillors can submit a complaint to the Integrity Commissioner to independently investigate and determine if a violation of the Code of Conduct occurred in a given instance. The *Act* provides Council with two penalties that may be applied to a Councillor, provided the Integrity Commissioner reports that, in his or her opinion, a member has contravened the code of conduct- which has not happened at this point:

1. A reprimand
2. Suspension of financial remuneration for a period of up to 90 days

The *Municipal Act, 2001*, provides no mechanism for a member to be removed from Council. In turn, this also means that there is no mechanism to remove a member of Council from Niagara's Board of Health, as Regional Council is effectively the Board of Health, as stated in the memo before Council (CL-C 28-2021).

## **Options for Consideration**

To help guide our discussion and to ensure we are being as productive as possible, I would like to provide Councillors with three options they may consider:

1. A member may submit a complaint to the Integrity Commissioner to make a determination if a Councillor's attendance and participation in a recent public demonstration during a provincial stay at home order contravened the Region's Code of Conduct.
2. Members may endorse a formal public statement affirming their commitment to the code of conduct, provincial law and recognition of their position of influence within the community; a draft can be provided for your review this afternoon should Councillors wish to proceed with this motion.
3. Members may provide direction to the Chair, on Council's behalf, to actively participate in the Provincial consultation process on strengthening municipal codes of conduct, as well as sending formal correspondence to the Minister of Municipal Affairs endorsing the recommendations of AMO regarding suggested revisions to the strengthen municipal codes of conduct.

As members will recall, Councillor Butters has a motion germane to option #3 that was referred to the Corporate Services Standing Committee. I would suggest that her motion be dealt with as well as it is relevant to the matter at hand.

Unless, and until, the Integrity Commissioner conducts a formal investigation into this incident, and produces findings that indicate that a breach of our code of conduct has occurred, I would suggest that Council's options are limited to what has been described above.

As we progress through our discussions today, it is my hope that all members of Council will conduct themselves in a manner that demonstrates respect for their colleagues, the office they hold, and the constituents they were voted to represent.

Sincerely,

**Jim Bradley, Chair**  
Niagara Region



THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. < >

A BY-LAW TO ADOPT, RATIFY AND CONFIRM THE ACTIONS OF  
REGIONAL COUNCIL AT ITS SPECIAL MEETING  
HELD APRIL 22, 2021

WHEREAS subsection 5 (3) of the Municipal Act, S.O. 2001, Ch. 25, as amended, provides that, except if otherwise authorized, the powers of Regional Council shall be exercised by by-law; and,

WHEREAS it is deemed desirable and expedient that the actions of Regional Council as herein set forth be adopted, ratified and confirmed by by-law.

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. That the actions of the Regional Council at its special meeting held April 22, 2021, including all resolutions or motions approved, are hereby adopted, ratified and confirmed as if they were expressly embodied in this by-law.
2. That the above-mentioned actions shall not include:
  - a) Any actions required by law to be taken by resolution; or
  - b) Any actions for which prior Local Planning Appeal Tribunal approval is required, until such approval is obtained.
3. That the Chair and proper officials of The Regional Municipality of Niagara are hereby authorized and directed to do all things necessary to give effect to the above-mentioned actions and to obtain approvals where required.
4. That unless otherwise provided, the Chair and Clerk are hereby authorized and directed to execute and the Clerk to affix the seal of The Regional Municipality of Niagara to all documents necessary to give effect to the above-mentioned actions.
5. That this by-law shall come into force and effect on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

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James Bradley, Regional Chair

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Ann-Marie Norio, Regional Clerk

Passed: < >