

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(DIVISIONAL COURT)**

B E T W E E N:

CONCERNED CITIZENS IN ADJALA/TOSORONTIO INC.

Appellant
(Moving Party)

and

**NELSON AGGREGATE CO., THE TOWNSHIP OF ADJALA/TOSORONTIO
and THE COUNTY OF SIMCOE**

Respondents
(Responding Parties)

NOTICE OF MOTION FOR LEAVE TO APPEAL

The Appellant (Moving Party) Concerned Citizens in Adjala/Tosorontio Inc. (the “Appellant”) will make a motion to the court to be heard on a date to be fixed by the Registrar, at Durham Regional Courthouse, 150 Bond Street East, Oshawa, Ontario L1G 0A2.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order granting leave to appeal to the Divisional Court from the Order of the Ontario Municipal Board made January 26, 2018;
2. Costs of this motion to be reserved for the panel hearing the appeal; and
3. Such further and other relief as counsel may advise and this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE that the Ontario Municipal Board (“Board”) made errors of law of sufficient importance to merit the attention of this Honourable Court including:

1. The Board erred in law in relation to the issue of water, including surface and groundwater.
2. The Board erred in law in relation to the issue of air emissions, including dust.
3. The Board erred in law in relation to the issue of transportation, including traffic.
4. The Board erred in law in relation to the issue of natural heritage and the habitat of species of risk, including the bobolink.
5. The Board erred in law in relation to the issue of noise and noise impacts.
6. The Board erred in law in relation to the issue of the municipal drain on the subject property, including the impacts of removing the drain.
7. The Board erred in law in relation to the issue of planning, including the application of the Provincial Policy Statement and relevant Official Plans.
8. The Board erred in law in relation to the issue of the application of the Aggregate Resources Act, including section 12.
9. Section 96 of the *Ontario Municipal Board Act*; and
10. Rule 61 of the *Rules of Civil Procedure*.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of this motion:

1. The Decision of the Board dated January 26, 2018;
2. The Motion Record and Factum of the Appellant; and
3. Such other evidence as counsel may advise and this Honourable Court may allow.

February 07, 2018

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