

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

HUMMEL PROPERTIES INC.

Plaintiff

- and -

THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

Defendant

STATEMENT OF DEFENCE

Notice of Application Issued November 22, 2019

**Filed pursuant to paragraph 8 of the order of the
Court of Appeal for Ontario dated October 28, 2022**

1. Save and except as admitted herein, the Defendant denies the allegations contained in the Plaintiff's Statement of Claim.
2. The Defendant admits the allegations contained in paragraphs 2, 3, 4, 10, 11, 14, 18, 22, 28, 36, 37, 38, 51 and 52 of the Statement of Claim.
3. The Defendant acknowledges that the Court of Appeal quashed Bylaw No.'s 5105-18 and 5015A-19 based on illegality.
4. The Defendant denies that the Plaintiff has suffered the damages alleged in the Statement

of Claim and puts it to the strict proof thereof.

5. Alternatively, the Defendant pleads that the Plaintiff has not properly mitigated any loss that it may have suffered, which is not admitted but denied.
6. The Defendant denies that the then Lord Mayor or any of the Town of Niagara-on-the-Lake's councillors acted in bad faith and puts the Plaintiff to the strict proof thereof.
7. The Defendant pleads and relies upon the provisions of the Municipal Act, 2001, S.O. 2001, Chapter 25, as amended; the Planning Act, R.S.O. 1990, Chapter P.13, as amended; and the Courts of Justice Act, R.S.O. 1990, Chapter C.43, as amended.
8. The Defendant requests that the Plaintiff's claim be dismissed with costs.

DATED: May 8, 2023

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