



October 19, 2020

Ontario One Call
1-104 Cooper Drive
Guelph, ON N1C 1C3

Office of the Commissioner
Public Works
Halton Region
1151 Bronte Road
Oakville, ON L6M 3L1

Dear Sirs/Mesdames:

Re: Proposed By-Law and Fee-Schedule Changes 2020 [amended]

One Call has proposed changes to their by-laws, which were last updated in 2014, to ensure they are better suited to current needs. Generally, the Regional Municipality of Halton has no objection to minor changes proposed by Ontario One Call. However, after undertaking extensive comparative research of Ontario law and comparison with more mature damage prevention laws in the United States, Halton Region finds that significant advancement is first needed at the Provincial level before some of the proposed changes to Ontario One Call by-laws are approved or come into force.

1. Supported By-Law and Fee Changes

The Regional Municipality of Halton supports the following proposed changes to Ontario One Call's By-Laws and schedules:

- Deletion of Schedule 1
- Changes in voting procedure
- Change to the notice period of Special Member Meetings

Halton Region has no objection to the fee schedule changes provided the performance adjustments reflect complete member assessments. Specifically, performance evaluations need to be based on the number of locate requests, and not limited to issued notifications.

2: Non-Supported By-Law Changes

By-Law 1

The composition of the Board is presently limited to sector members and excavators. In other jurisdictions, One Call boards include state/provincial voting representatives with a broad view to damage prevention and direct linkages to enforcement authorities. A change to the Board composition should consider this type of representation.

By-Law 2

Special Members Meeting Notice Period

The by-law changes recommend reducing the notice period for special meetings from 45 days to a 30 days. As evident by this current by-law review process, any reduction to existing requirements would leave insufficient time for adequate consultation, and a reduction to 30 days is therefore not supported.

Schedule 2

The Regional Municipality of Halton is not able to support the proposed changes to Schedule 2 at this time due to their being premature, or outside the objects of the Corporation:

Definitions:

A more comprehensive set of definitions is required to improve the clarity and application of the legislation and which would apply to the By-laws. The By-Law and its schedules need to recognize Excavators (though not as Members), Designers and outline their requirements more specifically. The Province, followed by Ontario One Call, should recognize the roles and define the responsibility of each process stakeholder in accordance with those listed in the CCGA best practices.

Mapping Notification and Data Requirement:

There is vagueness with whether or not the present or future intent of the Mapping and Data Requirements section would be within the objects of the organization. As it stands, the proposed language is overreaching and awards too much discretion to Ontario One Call. The by-laws, therefore, need to draw a direct link between these objects, and construct them narrowly to prevent ambiguity.

Dispute Resolution, Compliance, and Enforcement:

To begin, the scope of issues Ontario One Call plans to enforce is not limited to objects of the Corporation. During the September 30th member consultation meeting, the Corporation indicated its intent to engage in biased practices against members, and assume excavation-related enforcement decisions upon them that are beyond their objects. Specifically, it was proposed that Ontario One Call could take enforcement action against members because of their dual status as Excavators. In contrast, Excavators that are not members of Ontario One Call would not be subject to these actions.

While Ontario One Call has a compliance function within their mandate, the organization is not well-suited to conduct direct and on-site investigation due diligence that would be needed to levy fines related to damages. As exists in other jurisdictions, enforcement and compliance related to damages would require a province-wide presence and authority to undertake investigations with evidence that hold up to legal scrutiny.

Appeals:

Halton Region holds its position that the Province needs to first establish dispute resolution and appeal protocols consistent with existing provincially-established agencies, boards and commissions. The Region has advised the Province on this matter previously in 2014, and is pleased to see the progress with the recent TSSA regulations (Section 32) being approved. Similarly, to continue this progress, similar advancements need to be undertaken for Ontario One Call, with a goal to ensure they are coordinated with existing authorities and ministries.

Schedule 4

Section 7 of Schedule 4 needs to be retained to ensure Ontario One Call maintains a broad view of their role within the overall damage prevention system which includes project owners, designers, one calls, excavators, utility owners and locate service providers.

In summary, Halton Region thanks you for the opportunity to comment on the Ontario One Call proposed By-Law and Fee-Schedule Changes 2020, and trust that our feedback will be given due consideration in the consultation process.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kiyoshi Oka', with a horizontal line underneath.

Kiyoshi Oka, P.Eng.
Acting Commissioner, Public Works

cc: Public Safety Branch, Consumer Protection Ontario, Ministry of Government & Consumer Services, Province of Ontario
Enrico Scalera, Director, Ontario One Call - Municipal Sector