

BROOKS, BIELBY & SMITH
BARRISTERS & SOLICITORS

CONTINUING THE PRACTICE ESTABLISHED IN 1882

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February 6, 1997

DELIVERED

Town of Pelham
P.O. Box 400
Fonthill, Ontario
L0S 1E0

Attention: Jack Bernardi, Esq.

Dear Sirs:

Re: Town of Pelham p.f. Regional Municipality of Niagara
Railway Spur Lands
Re: Town of Pelham s.t. Nemy Holdings Limited
Highway 20 East, Fonthill
Re: Town of Pelham s.t. Maida
Part Block B, Plan 717, designated as Part 5, Plan 59R-9487

The above matters have been concluded in accordance with your instructions and we are pleased to submit our report to you.

PRELIMINARY MATTERS

We originally met in September, 1996 to discuss the original purchase of the lands (known as the railway spur lands) from the Regional Municipality of Niagara. In addition, the draft agreements of purchase and sale for the sale of certain portions of the railway spur lands to Mr. and Mrs. Maida and to Nemy Holdings Limited were also reviewed.

Given the draft documentation received from the Regional Municipality of Niagara we agreed that certain amendments would have to be made to the agreements of purchase and sale as the Region was requesting to have an easement reserved in its favour regarding its sanitary force main. These changes were necessary for both sale transactions.

We were required to do additional amendments to the easement in favour of the Region. These changes were necessary to satisfy the solicitor for the purchaser, Maida, as it was the intent of his client to construct a retaining wall on the subject lands. Such a construction would be in clear violation of the easement as originally worded and therefore it was necessary to carry out negotiations between the solicitor for the Maidas and

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