

BROOKS, BIELBY & SMITH

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RECEIVED

APR 4 1997

TOWN OF PELHAM
PLANNING DEPT.

April 4, 1997

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

Attention: Jack Bernardi, Esq.

Dear Sirs:

RE: Town of Pelham and Biggar/Petras
By-law No. 1870 (1997)

This letter is further to yours of
January 21, 1997.

We now enclose duplicate original By-law No. 1870 (1997), registered as instrument No. 719470 on January 22, 1997.

remain,

We trust this is satisfactory and

Yours very truly,

BROOKS, BIELBY & SMITH

PER:


R. Bruce Smith

RBS:pm

Encl.


<div>FOR OFFICE USE ONLY</div> <div>719470</div> <div>CERTIFICATE OF REGISTRATION CERTIFICATE OF EASEMENT CERTIFICATE OF MORTGAGE/CHARGE/RELEASE</div> <div>'97 01 22 14 35</div> <div>ACTING LAND REGISTRAR</div> <div>New Property Identifiers</div> <div>Executions</div>	(1) Registry <input checked="" type="checkbox"/> Land Titles <input type="checkbox"/>		(2) Page 1 of 4 pages	
	(3) Property Identifier(s)		Block	Property
	Additional: See Schedule <input type="checkbox"/>			
	(4) Nature of Document By-law No. 1870 (1997)			
	(5) Consideration Dollars \$			
	(6) Description Part of road allowance between Lots 4 and 5 Concession 4 in the Town of Pelham in the Regional Municipality of Niagara located within Part 1 on Reference Plan 59R-9398.			
	(7) This Document Contains:		(a) Redescription New Easement Plan/Sketch <input type="checkbox"/>	(b) Schedule for: Description <input type="checkbox"/> Additional Parties <input type="checkbox"/> Other <input checked="" type="checkbox"/>

(8) This Document provides as follows:

By-law No. 1870 (1997) to convey a portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, to Elias Petras and Britt-Inger Petras pursuant to Section 316 of the Municipal Act, R.S.O. 1990, c. M.45.

Continued on Schedule ☐

(9) This Document relates to instrument number(s)

(10) Party(ies) (Set out Status or Interest)	Name(s)	Signature(s)	Date of Signature Y M D
	THE CORPORATION OF THE TOWN OF PELHAM Town/Applicant by its solicitors BROOKS, BIELBY & SMITH	BROOKS, BIELBY & SMITH PER:  (R. Bruce Smith)	1997 01 22

(11) Address for Service P. O. Box 400, Fonthill, Ontario, L0S 1E0

(12) Party(ies) (Set out Status or Interest)	Name(s)	Signature(s)	Date of Signature Y M D

(13) Address for Service

(14) Municipal Address of Property not assessed	(15) Document Prepared by: R. Bruce Smith Brooks, Bielby & Smith Barristers and Solicitors 247 E. Main Street, Box 67 Welland, Ontario L3B 5N9	Fees and Tax	
		Registration Fee	
		Total	

THE CORPORATION OF THE
TOWN OF PELHAM
BY-LAW #1870 (1997)

Being a by-law to convey a portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham to Elias Petras and Britt-Inger Petras pursuant to Section 316 of the Municipal Act, R.S.O. 1990, Chapter M.45.

WHEREAS Elias Petras and Britt-Inger Petras (the "Owners") are the owners of lands known municipally as 2150 Sulphur Springs Drive, Ridgeville, Ontario and more particularly described in a deed registered on the 15th. day of December, 1995 as Instrument No. 699440 as Part of Lots 4 and 5, Concession 4, Town of Pelham, Regional Municipality of Niagara, designated as Parts 1, 3 and 4 on Plan 59R-9398 (the "Petras Lands");

AND WHEREAS there is a portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham located within the Petras lands and more particularly located within that part of the Petras Lands designated as Part 1 on Plan 59R-9398;

AND WHEREAS it appears that Sulphur Springs Drive was laid out and opened up in the place of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, or more particularly in place of at least the subject portion of said road allowance located within Part 1 on Plan 59R-9398;

AND WHEREAS it appears from a search of the records of The Corporation of the Town of Pelham and its predecessors that no compensation was ever paid to anyone for the laying out and opening up of Sulphur Springs Drive;

AND WHEREAS the Owners have made a presentation to Council of The Corporation of the Town of Pelham and have provided additional evidence in support of their contention that no compensation was paid and that the facts of this situation satisfy the requirements of Section 316 of the Municipal Act, R.S.O. 1990, Chapter M.45 (the "Act");

con't.....

TOWN OF PELHAM
CERTIFIED A TRUE COPY

Deborah M. McElroy
DEPUTY CLERK

- 2 -

AND WHEREAS Section 316 (1) of the Act provides that "Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or a successor in title, if that person owns the land that abuts on such allowance, is entitled to the soil and freehold of it and, to a conveyance of it";

AND WHEREAS Section 316 (2) of the Act provides that "Where the land that so abuts is owned by more persons than one, each is entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which that person's land abuts to the middle line of the allowance;

AND WHEREAS the subject portion of the road allowance located within Part 1 on Plan 59R-9398 is abutted on the west by lands owned by David E. Flemming and Norma L. Flemming (by instrument No. 15063B, registered on September 16, 1964) and by lands owned by Russell Robert Keith Dickson (by instrument No. 31549B registered on August 20, 1965);

AND WHEREAS Section 316 (2) of the Act therefore only entitles the Owners, Mr. & Mrs. Flemming and Mr. Dickson to that part of the road allowance upon which each of the owners' lands abut to the middle line of the road allowance;

AND WHEREAS that portion of the road allowance located within Part 1 on Plan 59R-9398 includes the lands beyond the middle point of the road allowance;

AND WHEREAS the Corporation of the Town of Pelham cannot convey any portion of the lands beyond the middle point of the road allowance to the Owners without the consent of the abutting landowners;

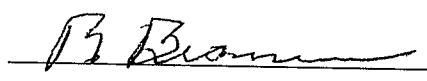
AND WHEREAS the abutting landowners, Mr. & Mrs. Flemming and Mr. Dickson have given their written consent to the conveyance of that portion of the road allowance located within Part 1 on Plan 59R-9398 to the Owners;

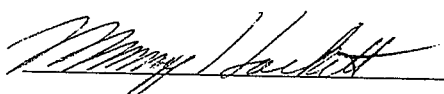
con't.....

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (1) . THAT the portion of the road allowance between Lots 4 and 5, Concession 4, Town of Pelham, located within Part 1 on Plan 59R-9398 be hereby conveyed to Elias Petras and Britt-Inger Petras pursuant to Section 316 of the Municipal Act, R.S.O. 1990, c. M.45.
- (2) THAT all costs associated with the conveyance and all other matters that have occurred related to the subject matter and to the conveyance including, but not limited to, legal fees and expenses, registration costs and other such expenses shall be the responsibility of Elias Petras and Britt-Inger Petras.
- (3) THAT the Mayor and Clerk be and are hereby authorized to execute all documents necessary to complete the conveyance of the relevant portion of the road allowance to Elias Petras and Britt-Inger Petras.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
20th. DAY OF JANUARY, 1997 A.D.


MAYOR - RALPH BEAMER


CLERK - MURRAY HACKETT