

THE CORPORATION OF THE
T O W N O F P E L H A M
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");

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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;

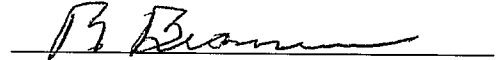
AND WHEREAS the abutting landowners, Mr. & Mrs. Flemming and Mr. Dickson have given their written consent to the conveyance of that portion of the road allowance located within Part 1 on Plan 59R-9398 to the Owners;

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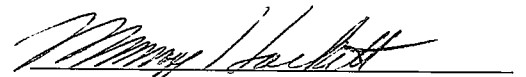
NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM ENACTS AS FOLLOWS:

- (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



CLERK