
HALDIMAND COUNTY

Report LSS-16-2022 Addendum to Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville



For Consideration by Council in Committee on August 23, 2022

OBJECTIVE:

To obtain authorization to transfer parts 2, 3 & 4 on Plan 18R-7908, Lakeshore Drive, Dunnville.

RECOMMENDATIONS:

1. THAT Report LSS-16-2022 Addendum to Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville be received;
2. AND THAT Part of PIN # 38216-0116(LT), Part of the Road Allowance between Townships of Rainham and South Cayuga, designated as Parts 2, 3 & 4 on reference plan 18R-7908, now Haldimand County be sold to Robert Park for a purchase price of \$9,845.75 plus HST and costs of the closure and conveyance, reserving an easement over Part 3 on 18R-7908 in favour of Haldimand County for existing infrastructure;
3. AND THAT By-law 2242/21 be amended to change clause 1 to reflect Part of PIN # 38216-0116(LT), Part of the Road Allowance between Townships of Rainham and South Cayuga, designated as Parts 2, 3 & 4 on reference plan 18R-7908, now Haldimand County be sold to Robert Park for a purchase price of \$9,845.75 plus HST plus costs of the closure and conveyance, reserving an easement over Part 3 on 18R-7908 in favour of Haldimand County for existing infrastructure;
4. AND THAT the Mayor and Clerk be authorized to execute all necessary documents.

Prepared by: Melissa Lloyd, Property Coordinator

Reviewed by: Lori Friesen, Manager of Legal & Support Services

Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville was presented to Council in Committee on February 9, 2021 and received approval to convey various lands to John and Donna DiVesti (DiVesti) and other lands to Robert Park (Park). Shortly after the report was approved some staff vacancies occurred within the Legal & Support Services Division that resulted in the file not being completed immediately. Once new staff were hired, the Council direction began to be enacted. At that time, problems became apparent with the title of the lands. Although some of the report recommendations have been finalized, others are the subject of this report and require further Council approval. Specifically, after consultation with the County's solicitor, a land surveyor and the Land Registry Office, it was discovered that part of the lands that were to be transferred to Park do not have clear title in the County's name and cannot be transferred in the usual way that the County would normally handle such situations. This was explained to Park who confirmed interest in proceeding with the sale of the lands that have clear title and confirmed withdrawal of the initial request to purchase the

small portion of the lands that do not have clear title. This report is to seek Council approval on the amended amount offered for the 3 Parts that will proceed to be transferred to Park at a reduced rate, that proportionally reflects the reduced amount of land and not at a reduced per acre offer that was previously approved by Council.

BACKGROUND:

Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville was approved by Council to close and convey parts of the road allowance known as Lakeshore Road to John and Donna DiVesti (DiVesti) and other parts to Robert Park (Park). The conveyance of lands to DiVesti has already been approved via by-law. During the conveyance process of Parts 2, 3, 4, 6 & 7 on reference plan 18R-7908 to Park, the County's solicitor advised that the normal process to transfer the lands could not be utilized for Parts 6 and 7. This was discovered after consultation with a surveyor and the Land Registry Office. The main issue is that Parts 6 and 7 are shown on title as owned by "Public Authority Having Jurisdiction" (PAHJ). In order to transfer this property to Park, it must first have clear title in the County's name. In order to achieve that, a vesting order would need to be sought.

When the conversion from Registry to Land Titles (1999 to 2010) occurred, for the most part, the LRO identified the owners of road allowances as government entities, and named those entities on title. In cases where there was no registered evidence of the specific public authority having ownership, title was listed as "the PAHJ" until the proper public authority having jurisdiction asserted, and had its ownership confirmed. It is a common occurrence in municipalities where road allowances are identified as PAHJ on title, for the municipality to assert its ownership through an application to the LRO when a request has been made to the County, from a member of the public, to purchase a piece of road allowance. The normal process is to submit an administrative application to the LRO called a General (Application). However, in this case, the LRO has indicated they are not able to accept this process and that in order to confirm ownership of the property, the County would need to proceed to submit a Vesting Order Application to the court.

ANALYSIS:

During the preparation of the conveyance documentation for Parts 2, 3, 4, 6 & 7 on reference plan 18R-7908 to Park, the solicitor, in consultation with the LRO, determined that the title issue with Parts 6 & 7 could not easily be rectified as per standard practice through the submission of an Application (General) to the Land Registry Office (LRO).

Based upon the above information, Park would like to finalize the approved conveyance of Parts 2, 3 & 4 which do have clear title and will be conveyed together as one PIN to ensure that no one Part would be landlocked. In Report LSS-02-2021 Road Closure and Conveyance of Part of Lakeshore Road, Dunnville, Council approval was received to sell Parts 2, 3, 4, 6 & 7 (approximately 0.11 acres) for a purchase price of \$11,000 plus HST, plus costs of closure and conveyance (includes legal costs), reserving an easement over Parts 3 & 6 on 18R-7908 in favour of Haldimand County for existing infrastructure. Authorization for the conveyance was provided via By-law 2242/21. As a result of Parts 6 and 7 no longer being a part of the acquisition, Park has offered a purchase price of \$9,845.75 plus HST for the remaining Parts 2, 3, 4 (approximately 0.10 acres), plus costs of the closure and conveyance, reserving an easement over Parts 3 on 18R-7908 in favour of Haldimand County for existing infrastructure.

The remaining parts 6 and 7 are no longer part of the request to purchase from Park. Staff could continue with the vesting application process at an estimated cost between \$3,000 and \$7,000 for legal fees, depending on the amount of work involved for processing the vesting order and registering the

necessary documents on title. At this time, staff are not recommending to proceed with vesting this small portion of land due to the costs and inability for cost-recovery. Staff do not believe it is necessary at this time to confirm ownership, and believe it would be more prudent to wait until future vesting orders are required to submit all together. The risk of another public entity asserting ownership is highly unlikely.

FINANCIAL/LEGAL IMPLICATIONS:

The net sale proceeds for the conveyance of lands that are able to be sold to Park will be placed in the Land Sales Reserve in accordance with County Policy.

STAKEHOLDER IMPACTS:

N/A

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

REFERENCES:

None.

ATTACHMENTS:

1. Reference Plan 18R-7908