
Council

Date

November 6, 2019

Time

9:30 AM

Location

Council Chamber, 2nd Floor Civic Centre
300 City Centre Drive, Mississauga, ON L5B 3C1

7. **DEPUTATIONS**

7.5 40th Anniversary of the Mississauga Train Derailment

Gavin Bequiri and Dillion Dobusz, Respond, Search and Rescue, to speak regarding the 40th Anniversary of the Mississauga Train Derailment

14. **CORRESPONDENCE**

14.1. *Information Items*

14.1.2. Letter dated October 31, 2019, from Tom Halinski, Aird & Berlis LLP, regarding One-Foot Reserves on Registered Plan 489, Former Township of Toronto End of Ambleside Drive and Martley Drive, Ward 2, Lorne Park

Item 21.2

17. **INTRODUCTION AND CONSIDERATION OF BY-LAWS**

17.13. A By-law of the City of Mississauga Delegation Authority Respecting Indemnity and Remediation Agreements regarding environmental investigations and remedial works on City Properties

GC-0582-2019 / October 30, 2019

17.14. A by-law to authorize the execution of an Agreement respecting various relationship matters between The Corporation of the City of Mississauga and the Greater Toronto Airports Authority

Resolution 0183-2019 / July 3, 2019

21. **CLOSED SESSION**

(Pursuant to Subsection 239(2) and 239(3.1) of the Municipal Act, 2001)

21.4. **Litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board** – Report dated September 9, 2019 from the City Solicitor *“Appeals of the Decisions of the Committee of Adjustment with respect to 3447 Cawthra Road – Sunset 6 Investments Inc. – Ward 3”*

21.5. **Education Session:** Cyber Security Update (Verbal Presentation)

AIRD BERLIS

Tom Halinski
Direct: 416.865.7767
E-mail: thalinski@airdberlis.com

October 31, 2019

Our File No. 153451

BY EMAIL: diana.rusnov@mississauga.ca

Mayor and Members of Council
City of Mississauga
300 City Centre Drive
Mississauga, ON L5B 3C1

Attention: Diana Rusnov, Director of Legislative Services and City Clerk

Dear Sirs/Mesdames:

**Re: One-Foot Reserves on Registered Plan 489, Former Township of Toronto
End of Ambleside Drive and Martley Drive, Ward 2, Lorne Park
Meeting of City Council – November 6, 2019**

I act on behalf of twelve households on Ambleside Drive and Martley Drive in Ward 2, Lorne Park. On behalf of our clients, we hereby request that the City take the necessary steps to acquire the one-foot reserves shown on Registered Plan 489, Township of Toronto.

Plan 489 was registered in 1953. For unknown reasons, the one-foot reserves at the ends of Ambleside Drive and Martley Drive were not conveyed to the municipality but rather remained in the ownership of the original developer, creating an anomalous situation. A copy of Plan 489 is attached to this letter. Also attached is a copy of the abutting plan of subdivision, Registered Plan H-13 (1913), which illustrates that there are two lots on Queen Victoria Avenue, the rear lot lines of which abut the one-foot reserves.

Our clients' request arises from an application to sever the lot known as 1262 Queen Victoria Avenue, which is now part of Plan H-13. The rear lot line of 1262 Queen Victoria abuts, in large part, the one-foot reserve at the end of Ambleside Drive. The remainder of the lot abuts 1302 Ambleside Drive. This is illustrated on the third attachment to this letter, which is a part of the Notice of Hearing sent out by the Committee of Adjustment. Our clients are opposed to the proposed severance. Until recently, Transportation and Works staff did not support the application but, shortly before the March 2019 Committee of Adjustment hearing, Staff issued a memorandum supporting the application, subject to conditions. One of these conditions is that the applicants make satisfactory arrangements for the lifting of the one-foot reserve at the end of Ambleside Drive. The Committee of Adjustment hearing currently stands adjourned.

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Since the adjournment in March, it has come to the attention of City Staff that the one-foot reserves are not owned by the City of Mississauga but remain in the name of the developer of Plan 489. The subdivision agreement pertaining to Plan 489 does not contain the standard provision requiring the conveyance of the reserves to the municipality prior to or upon registration of the Plan. This can only have been an oversight on the part of the then Township of Toronto. As Council is aware, one-foot reserves are invariably created to ensure a municipality's ability to control access to its public streets. Accordingly, the ownership of reserves needs to rest in municipal hands.

At present, the one-foot reserves on Plan 489 remain in the name of John Albert Collett. It is unknown at this time whether Mr. Collett is alive or whether the reserves have fallen into the estate of Mr. Collett, either by the general provisions of a will or through the rules of intestacy. If the appropriate searches indicate that Mr. Collett is alive or has an heir to whom the reserves would have devolved, the City can approach these persons and acquire the reserves from them. It is also possible that the lands have become the property of the Provincial Crown by operation of law, if there are no heirs. If that is the case, then pursuant to the *Escheats Act*, an application can be made by the City to request that the Crown convey the reserves to the City. In addition, depending on the factual circumstances, the City may have a claim for adverse possession of the reserves or the City may exercise its powers of expropriation to obtain title to them.

The timing of this correspondence was prompted by the fact that the owners seeking to sever 1262 Queen Victoria Avenue recently brought an application to the Superior Court of Justice for a declaration that they own the one-foot reserve on Ambleside Drive by way of adverse possession (*Stove v. Collett*, Court file no. CV-19-00003692-0000)(the "Court Application"). The Court Application was originally scheduled to be heard on September 12, 2019, but was not served on, did not name, and made no reference to either the City or any of the abutting owners as responding parties, notwithstanding the active participation of the City and the residents on Ambleside throughout the severance application process before the Committee of Adjustment. The Court Application also made no mention of the severance application. Accordingly, the Court adjourned the hearing in order to give the City and our client the ability to respond.

It is our view that, for a number of fundamental reasons, the Court Application has no merit. In addition, it is our clients' submission that the reserves must be owned by the City and should not be in the hands of any private person or persons who can then control access to Ambleside Drive and Martley Drive from the lots on Queen Victoria Avenue which abut the reserves. It does not matter whether those persons are owners of the lots on Queen Victoria or are the residents of Ambleside or Martley Drive.

Once the City becomes the owner of the reserves, it can properly evaluate whether they ought to be lifted in light of any development application that may be made. Our clients reserve the right to take the position that the reserves ought not to be lifted, including in the case of the

AIRD BERLIS

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severance application for 1262 Queen Victoria Avenue. However, the decision regarding the lifting, or not, of the one-foot reserves ought to lie with City Council and not with private individuals who might acquire the reserves.

Based on the above, our clients respectfully request City Council to direct Staff and counsel to oppose the Court Application and to subsequently take the necessary steps to acquire both one-foot reserves on Plan 489, in order to correct the apparent oversight of the City's predecessor municipality.

We intend to make a delegation to this effect at the November 6, 2019, meeting of Council.

Yours truly,

AIRD & BERLIS LLP



Tom Halinski
TH/ly

Encls.

c. Client

37703142.1

AIRD BERLIS

SURVEYOR'S CERTIFICATE

I, Dana Wandabense, an Ontario Land Surveyor, certify that:-
 (a) I was present at and did personally superintend the survey represented by this plan;
 (b) this plan accurately shows the manner in which the lands (edged in red) have been surveyed and subdivided by me;
 (c) Every angle of the exterior boundary of the plan is defined in the survey thereof by a monument and a monument is placed at one angle of each street intersection shown on this plan;
 (d) I have indicated on the plan the position and form of each of the monuments;
 (e) the monuments conform in all respects to requirements of Section 13 of The Survey Act;
 (f) the survey was made by me between the 25th day of June, 1953 and the 26th day of June, 1953;
 (g) the survey has been accurately made in accordance with all the provisions of The Survey Act and The Registry Act relating thereto.

Dated at Port Credit, the 30th Day of July, A.D. 1953

Dana Wandabense
 Ontario Land Surveyor

AFFIDAVIT

County of Peel - William J. Johnston of the Town of New Toronto in the County of York - make oath and say, 1st - That I was personally present and did see this plan duly signed by John J. Johnston and John J. Johnston and that I know the said John J. Johnston and John J. Johnston and that I am a subscribing witness to said signing.

Sworn before me, at Toronto, in the County of York, this 27th day of August, 1953.

John J. Johnston John J. Johnston

AFFIDAVIT

County of Peel - William J. Johnston of the Town of New Toronto in the County of York - make oath and say, 1st - That I was personally present and did see this plan duly signed by John J. Johnston and John J. Johnston and that I know the said John J. Johnston and John J. Johnston and that I am a subscribing witness to said signing.

Sworn before me, at Toronto, in the County of York, this 27th day of August, 1953.

John J. Johnston John J. Johnston

FIELD NOTES

I hereby certify that this plan represents a true copy of the field notes taken in connection with the survey thereof.

Dated July 30th, 1953

Dana Wandabense O.L.S.

I certify that this is a duplicate copy of a plan (being a...
 Division of Peel, Con. 2, S.D.S. Toronto, T.M.)
 prepared by me, Dana Wandabense, Surveyor,
 and dated the 30th day of July, A.D. 1953.

Approved under Section 26 of
 THE PLANNING ACT
 This 14th day of Oct., 1953.

Dana Wandabense
 MINISTER OF PLANNING & DEVELOPMENT
 JAMES AND WANDABENSE
 ONTARIO LAND SURVEYORS
 PORT CREDIT, ONT.

OWNER'S CERTIFICATE

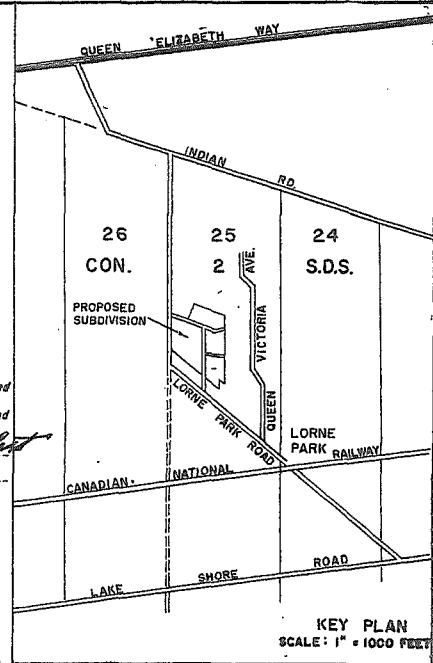
Lots 1 to 28, inclusive, within the boundaries edged in red have been laid out in accordance with our instructions and the streets, namely Martley Drive, Twin Oaks Dell, and Ambleside are hereby dedicated as public Highways.

I hereby consent to the filing of this plan.

MORTGAGEE'S CERTIFICATE

I hereby consent to the filing of this plan.

John J. Johnston John J. Johnston



KEY PLAN
 SCALE: 1" = 1000 FEET

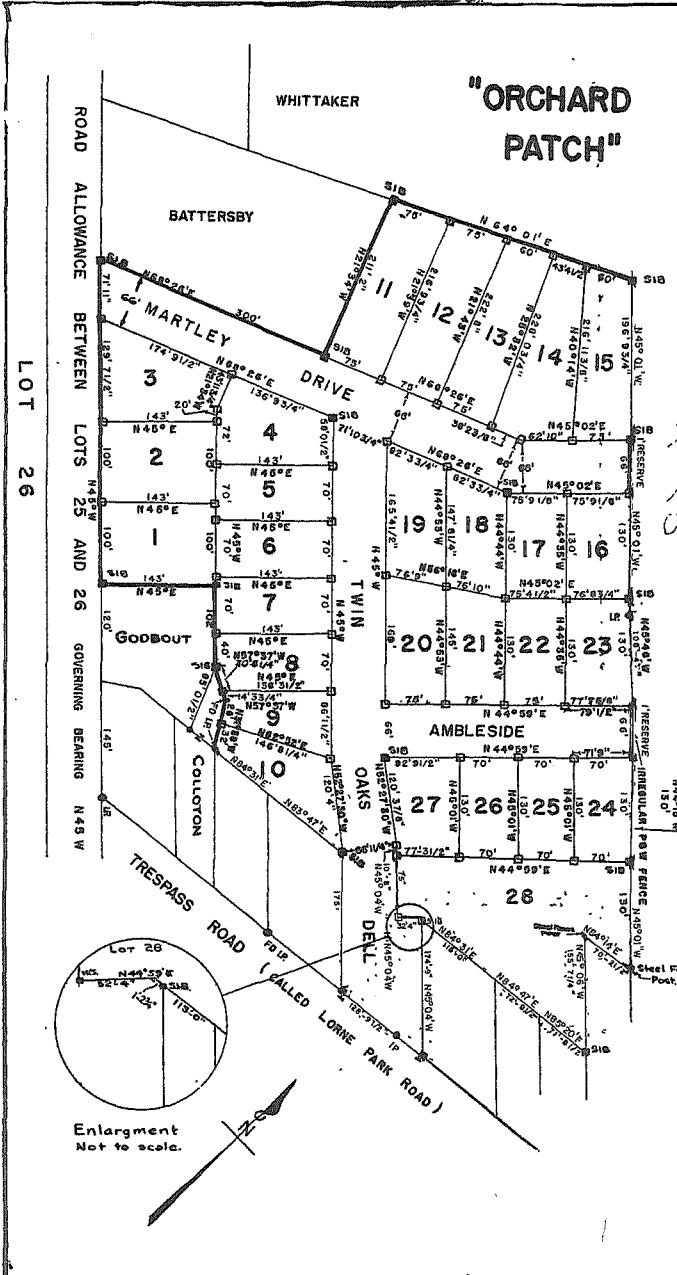
I CERTIFY that this plan and a duplicate thereof was duly entered and registered in the Registry Office for the County of Peel at Peel on the 30th day of July, A.D. 1953 as No. 489

I CERTIFY that this plan and a duplicate thereof was duly entered and registered in the Registry Office for the County of Peel at Peel on the 30th day of July, A.D. 1953 as No. 489

Bearings are referred to the N45°W of Road Allowance Between Lots 25 and 26
 Iron Pipes are shown
 Standard Iron Bars are shown

John J. Johnston
 Registrar

PLAN OF SUBDIVISION OF
PART OF LOT 25, CON. 2 S.D.S.
 TORONTO TP. PEEL CO.
 SCALE: 1 INCH = 100 FEET
 RP-489



Enlargement
 Not to scale.

SEE DEPOSIT NO. 261

Plan of Subdivision of Part of Lot 25 Con. 2 South of Dundas St. Township of Toronto

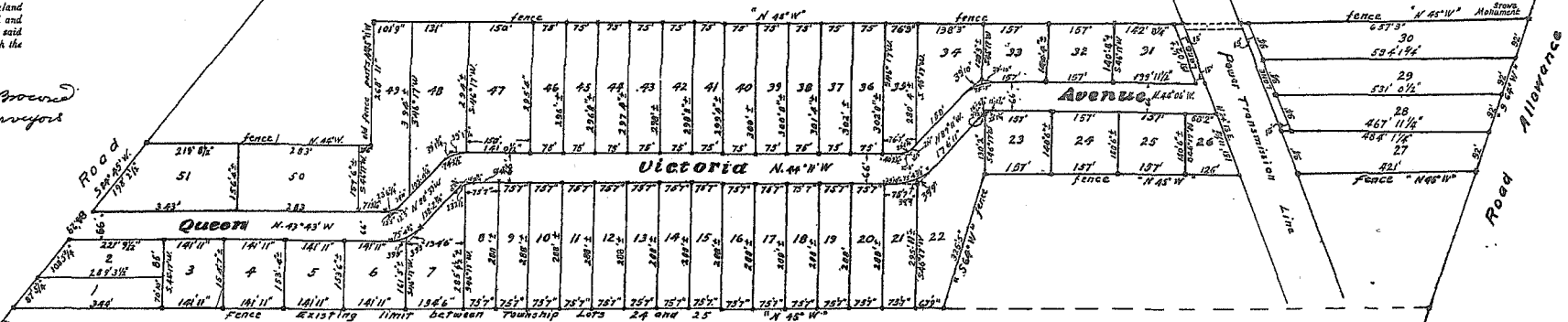
Scale - 150 feet to an Inch.

Note: All bearings Astronomic except where noted.
Angles are plotted since marked. Plus +
Red lines and figures refer to tangent lines
and distances of curves

County of York }
To wit }
I, James M. Thompson
of the County of York,
do hereby certify that I was personally present and did see this plan
duly executed by Wm. J. Brown
and that the same was signed by
me this 30th day of June 1913
That I am a subscribing witness to the said plan
Sworn before me at the City of Toronto
in the County of York
this 30th day of June 1913
at the year of our Lord 1913
and of the Dominion of Ontario the 30th

SURVEYORS CERTIFICATE.
We hereby certify that this plan accurately shows the manner in which the land indicated herein has been surveyed and subdivided by U.S. and that the said plan is prepared in accordance with the provisions of the Registry Act.
Dated June 27, 1913

Wm. J. Brown
D. L. Surveyor



SURVEYORS CERTIFICATE.
We hereby certify that this plan has been prepared from field notes taken in actual survey
Wm. J. Brown
D. L. Surveyors

OWNERS CERTIFICATE
I hereby certify that Lots 1 to 21 Coloured pink and Queen Victoria Ave. Lanes Coloured brown on this plan have been laid out according to instructions
George Beest

County of York }
To }
I, Marie Beest
of the County of York,
do hereby certify that I was personally present and did see this plan duly executed
by James M. Thompson and Marie Beest
That the said Plan was signed at the Office of the Registrar
That I am a subscribing witness to the said Plan.
Sworn before me at the City of Toronto in the County of York
this 30th day of June 1913

MORTGAGEE'S CERTIFICATE
We as mortgagees here by consent to the filing of this plan
James M. Thompson
Marie Beest

Qualified Approved by
The Council of the Township of Toronto
this 5th day of July 1913.
Charles H. Gill
Chair, Corp Toronto

SURVEYORS CERTIFICATE
We hereby certify that this is a duplicate plan of subdivision of part of Lot 25 Concession 2505 Township of Toronto
Wm. J. Brown
D. L. Surveyors

Business and registered
this 9th day of July A.D.
1913 at Oshawa N. 13
J. J. Blomfield



B043/18
1262 QUEEN
VICTORIA AVE.

RETAINED
LANDS

SEVERED
LANDS

Date	2018/05/22
Time	1:30:04 PM
Map	NML
Comment	

Scale
1:2000

Bentley
Sustaining Infrastructure