



REPORT

REPORT TO: Mayor Bonnette and Members of Council

REPORT FROM: Susie Spry, Acting Supervisor of Enforcement Services

DATE: November 7, 2019

REPORT NO.: ADMIN -2019-0040

RE: Delegation of Authority for Line Fence matters
File No.: L19

RECOMMENDATION:

THAT Report No. ADMIN-2019-0040 dated November 7, 2019 regarding the Delegation of Authority for Line Fence matters be received;

AND FURTHER THAT staff bring forward a bylaw to establish the collection of Certified Amounts under the Line Fences Act and Delegate Authority to the Town Treasurer in the payment and collection of the certified amounts.

BACKGROUND:

The Town of Halton Hills follows the provincial *Line Fences Act* to assist with divisional line fences matters. Specifically, the Act is used when the Property Owners of two adjoining properties have been unable to reach an agreement on the sharing of the costs of a line fence or on the type of line fence to construct. A resident can request that the Town's fence viewers attend the properties to determine what each property owner is responsible for with regards to payment and type of fence. This is referred to as "an award". Should a neighbor dispute the "award" the next step would be an appeal. When an appeal is filed Town staff are required to schedule an appointment with the provincially appointed referee to hear the appeal and make final decision.

On April 16, 2019, The Clerk's Department received an application for a Request for Fence Viewers as per the *Line Fences Act* in relation to a dispute involving 2 neighbouring properties on Ninth Line, Halton Hills (referred to in this report as Owner A and Owner B). A fence viewing was conducted on April 29, 2019 and an award was issued on May 10, 2019. An appeal to the award was filed on May 31, 2019 by Owner A and was scheduled to be heard by a provincially appointed Deputy Referee on July 16, 2019. The referee rendered his decision on July 19, 2019 which resulted in the original

award being upheld which determined Owner A was responsible for eighty (80) percent of the costs of the new fence totaling \$4,426.70 and Owner B responsible for the remaining twenty (20) percent totaling \$1,106.60. Owner A was provided a deadline date of October 21, 2019 to make payment to Owner B. As of the date of this report, payment in the amount of \$4,426.70 has not been presented to Owner B.

Section 12 of the Fence Line Act outlines the steps that can be taken by the Town in the collection of the Certified Amount.

Collection of amount as taxes

(5) The clerk of the local municipality in which the land of the adjoining owner is situate shall, upon receiving a certificate prepared under subsection (1) and the award in respect of which the certificate was made, or copies thereof certified by the clerk in accordance with this Act, and upon application in writing by the owner entitled to receive the amount certified, have the total amount certified placed upon the collector's roll and the amount may be collected in the same manner as taxes, together with interest thereon accruing from the date the application was made at the same rate as late payment charges imposed by the municipality under section 345 of the Municipal Act, 2001 or section 310 of the City of Toronto Act, 2006, as the case may be, in respect of taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof and when collected shall forthwith be paid over to the owner entitled thereto. R.S.O 1990, c. L.17, s. 12 (5); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 30 (2).

Payment by treasurer

(6) Despite subsection (5), the council of a local municipality may by by-law provide that where a certificate and an award mentioned in that subsection and made in respect of land situate within the municipality, or copies thereof certified by a clerk in accordance with this Act, are deposited with the clerk of the municipality, the treasurer of the municipality may, upon written application therefor, pay to the owner entitled to receive the amount certified, the amount so certified or a portion thereof, where the treasurer is satisfied that the owner is entitled thereto, and where an owner has received the amount certified or a portion thereof under this subsection, the owner is not entitled to make an application or receive an amount under subsection (5). R.S.O 1990, c. L.17, s. 12 (6).

Collection of amount as taxes

(7) An amount paid to an owner under subsection (6) shall be placed upon the collector's roll and may be collected in the same manner as municipal taxes together with interest thereon accruing from the date of payment at the same rate as late payment charges imposed by the municipality under section 345 of the Municipal Act, 2001 or section 310 of the City of Toronto Act, 2006, as the case may be, in respect of taxes due and unpaid, and is until so collected or otherwise paid a charge upon the land liable for payment thereof. R.S.O 1990, c. L.17, s. 12 (7); 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 30 (3).

COMMENTS:

To ensure that these dispute resolutions are followed staff is recommending that Council approve a bylaw that will allow for immediate payment by the Treasurer and that the Treasurer place the certified amount on the tax roll for collection. This will assist in the timely and efficient payment of certificates of default by giving the Town Treasurer or their designate the power to process these adjustments without the need for a separate report to Council.

RELATIONSHIP TO STRATEGIC PLAN:

This is an operational matter and has no direct relationship with the Strategic Plan.

FINANCIAL IMPACT:

As the amount paid by the Town will be collected through taxes, this results in no direct financial impact associated with this report.

CONSULTATION:

Staff consulted with Corporate Services staff to understand the options available to allow the award to be paid out to the respective property owner.

PUBLIC ENGAGEMENT:

There was no public engagement required as this is an administrative matter.

SUSTAINABILITY IMPLICATIONS:

The Town is committed to implementing our Community Sustainability Strategy, Imagine Halton Hills. Doing so will lead to a higher quality of life.

The recommendation outlined in this report is not applicable to The Strategy's implementation.

COMMUNICATIONS:

Owner B has been notified that staff will be seeking Council's approval on payment. However it is at the discretion of the Treasurer to decide if the payment is made immediately and placed on the tax roll.

CONCLUSION:

Staff recommends that the Council for the Town of Halton Hills delegate authority as it relates to Line Fence matters under the Line Fence Act section 12(5), 12 (6), and 12 (7) to the Town Treasurer.

Reviewed and Approved by,



Moya Jane Leighton, Manager of Accounting and Town Treasurer



Suzanne Jones, Clerk & Director of Legislative Services



Brent Marshall, Chief Administrative Officer