



CLOSURE AND SALE TO ABUTTING OWNERS OF SHORE ROAD ALLOWANCES

INTRODUCTION:

The Corporation of the Township of South Algonquin (the “Municipality”) came into existence on June 1, 1998.

It is comprised of the former organized Township of Airy, and the former unorganized Townships of Dickens, Lyell, Murchison & Sabine.

Prior to June 1, 1998, all unopened road allowances – including shore road allowances within The Township of Airy were vested in the Municipal Corporation of the Township of Airy, but those in the four unorganized townships were vested in Her Majesty The Queen in Right of the Province of Ontario and were administered by the Ontario Ministry of Natural Resources (“M.N.R.”).

Both before and after June 1, 1998, and both in organized and in unorganized townships, it was and is ultimately the decision of the Province of Ontario whether or not to approve the closure and sale to the abutting owner of any particular portion of shore road allowance. Since June 1, 1998, however, the closure and sale of any portion of shore road allowance within its boundaries must be initiated and completed by the Municipality, subject to the approval of the Ontario Ministry of Municipal Affairs and Housing (“M.M.A.H.”).

This memorandum sets out the policies and procedures that the Municipality intends to follow in evaluating and processing applications from owners for the closure and sale to them of portions of shore road allowance abutting their property.

BACKGROUND:

As of June 1, 1998, dozens of owners of properties in the four unorganized townships had applications pending with the Ontario Ministry of Natural Resources. In many such cases, the necessary survey had been prepared, or was in the course of preparation. Many of the owners had paid to the M.N.R. its flat fee of \$750.00 plus GST, and were awaiting their patent.

As of June 1, 1998, the said portions of shore road allowance vested in the Municipality, and the M.N.R. no longer had any jurisdiction over same or the power to sell and issue patents for same.

The M.N.R. so advised owners whose applications were still pending, and refunded to the owners any payments that had been accepted.

Any survey which would have been acceptable to the M.N.R. are still acceptable.

POLICIES:

Each application for closure and sale of a portion of shore road allowance will be considered individually on its merits. In deciding whether or not to approve any particular application, however, the Municipality will have regard for and be guided by the following policies:

1. No portion of shore road allowance will be closed if:

(a) It is part of a flood plan (but if there is an existing building on it, consideration may be given to closing and selling to the owner that portion of the shore road allowance actually occupied by the building);

(b) it is used for road or pedestrian access to an adjacent property or properties (unless an alternate, suitable access approved of by the owners of the properties affected and acceptable to the Municipality is provided);

(c) it is below the ordinary high water mark (flooded land will not be closed or sold);

(d) it includes a portage trail;

(e) it is regarded as having historic or cultural value; or

(f) it has been identified as required for recreational purposes of the Municipality.

2. Unopened road allowances leading to water (as opposed to shore road allowances) will not be closed (unless it is demonstrated that there is nearby alternative, suitable access to the water body, or such alternative, suitable access to the water body is provided by the applicant).

3. Portions of shore road allowance will be closed only on application of and will be sold only to the owner or owners of the abutting land (the "Applicant").

4. The Applicant must furnish the consent in writing from the neighbours on either side of his property, and the neighbours must ultimately agree with the location of the surveyed lines defining the portion of shore road allowance to be closed and sold. (The Municipality will not become involved in or resolve and 'disputes', and will generally decline to process or to continue to process the applications of owners involved in any such 'dispute').

5. Unless an alternative location has been agreed upon between the Applicant and the Applicant's neighbour, the surveyed lines across the shore road allowance should be drawn perpendicular to the water's edge.

6. The acceptance and processing of any particular application by the Municipality is ultimately subject to the approval of the M.M.A.H., which will receive input from the M.N.R. and, in certain cases, from the Ontario Ministry of Transportation, and the Municipality will have no liability whatsoever to any Applicant whose application is not approved by the provincial ministries.

7. The Municipality will charge \$5.00 per lineal foot, measured along the high water mark, for the portion of shore road allowance closed and in addition to the foregoing price, the Applicant shall be responsible for all survey, advertising, administrative and legal costs, including the Municipality's administrative costs and the legal fees and disbursements of the Municipality's solicitor. The application fee is \$595.00.

8. No application for closure and sale will be accepted or processed unless all property taxes are paid up-to-date.