

THE CORPORATION OF THE TOWNSHIP OF ESSA

BY-LAW NO. 2015 – 25

A By-law to remove the common law right of passage by the public over a portion of the Road Allowance between Lots 25 and 26, Concession 11, Township of Essa, being that portion of the said Road Allowance designated as Parts 2 and 3 on Plan 51R-38311 in the Township of Essa, County of Simcoe, being all of PIN 58101-0002(LT).

WHEREAS a portion of the Road Allowance between Lots 25 and 26, Township of Essa, County of Simcoe, being all of PIN 58101-0002(LT) ("Subject Property") was laid out as an original road allowance by the Crown surveyors; and

WHEREAS Section 26 of the *Municipal Act, 2001*, S.O. 2001, c. 25, provides that road allowances for roads made by the Crown surveyors are public highways; and

WHEREAS the Subject Property has been assumed into the Township of Essa Road System through expenditure of funds by the Township pursuant to Section 26(1) and (4) of the *Municipal Act, 2001*, S.O. 2001, c. 25; and

WHEREAS Section 11 of the *Municipal Act, 2001*, c. 25 authorizes the municipality to pass by-laws regarding highways under its jurisdiction; and

WHEREAS Section 35 of the *Municipal Act, 2001*, c. 25 authorizes the municipality to pass by-laws removing or restricting the common law right of passage by the public over a highway; and

WHEREAS Council of the Corporation of the Township of Essa has determined that the common law right of passage by the public over the Subject Property should be removed, and the Subject Property should not be maintained by the Township as a public highway; and

WHEREAS Council of the Corporation of the Township of Essa has agreed to allow the following registered owners of adjoining property ("Adjoining Owners"), unlimited access, in perpetuity, to use the Subject Property, at their own risk, and that no other parties are allowed to use the Subject Property:

PIN/REFERENCE PLAN

ADJOINING OWNER

58101-0146(LT) being
Part 1, Plan 51R-35120

Unifay Investments Ltd. and
Fedar Investments Ltd.

58114-0119(LT)
being Part 4, Plan 51R-38311

Fishervale Acres Limited

WHEREAS the adjoining owner(s) may construct and maintain a gate at the access point to the Subject Property which gate, if installed, is to be locked at all times; and

WHEREAS the Township will post signs at all access points to the Subject Property stating:
ROAD CLOSED BY MUNICIPALITY – USE AT OWN RISK; and

WHEREAS each of the Adjoining Owners is to be made aware that the Township will not be maintaining the Subject Property in any fashion, and that the Township will be posting signs at all access points to the Subject Property stating: ROAD CLOSED BY MUNICIPALITY – USE AT OWN RISK; and

WHEREAS the Township will not allow any party to make any alterations to the Subject Property without the written authorization of the Township; and

WHEREAS if any of the specified Adjoining Owners damage or alter the Subject Property or any signs or gates, they shall be responsible for the cost of rectifying the damage;

NOW THEREFORE the Council of the Corporation of the Township of Essa hereby enacts as follows:

1. This Council does hereby remove the common law right of passage by the public over a portion of the Road Allowance between Lots 25 and 26, Concession 11 being that portion of the said Road Allowance designated as Parts 2 and 3 on Plan 51R-38311, being all of PIN 58101-0002(LT).
2. This Council does hereby authorize that the Subject Property shall not be maintained by the Township as a public highway.
3. This Council shall authorize the adjoining owners to carry out and pay for the construction and maintenance of a gate at the access point to the Subject Property which gate, if installed, is to be locked at all times and to maintain the Subject Property for access purposes to their respective properties.
4. This Council does hereby authorize allowing the following Adjoining Owners unlimited access, in perpetuity, to use the Subject Property, at their own risk, and that no other parties are allowed to use the Subject Property:

PIN/REFERENCE PLAN

ADJOINING OWNER

58101-0146(LT) being
Part 1, Plan 51R-35120

Unifay Investments Ltd. and
Fedar Investments Ltd.

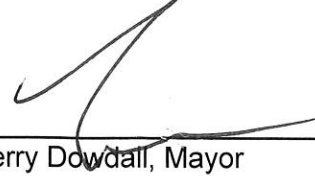
58114-0119(LT)
being Part 4, Plan 51R-38311

Fishervale Acres Limited

5. This Council does hereby authorize the Mayor and Clerk to take all necessary action to carry out all of the provisions of this by-law, including the execution of any documentation in connection with the restriction of access, use and motor vehicle traffic over the Subject Property.
6. This Council does hereby authorize the giving of notice to the public of the passage of this by-law by posting such notice on the Township's web site.

7. This by-law shall come into force and effect on and from the date it is finally passed by Council and registered in the Land Registry Office for the County of Simcoe.

READ A FIRST, AND TAKEN AS READ A SECOND AND THIRD TIME AND FINALLY PASSED on this the 22nd day of April, 2015.



Terry Dowdall, Mayor



Bonnie Sander, Clerk