



The Corporation of the Town of LaSalle

To: Mayor and Members of Council

Prepared by: K. Miller, Deputy Clerk / D. Dadalt, Legal Counsel

Department: Administration

Date of Report: November 30, 2020

Report Number: AD-10-2020

Subject: Alley Q7 referral - M. Taylor / J. Timmins

Recommendation

That the report of the Deputy Clerk and Legal Counsel dated November 30, 2020 (AD-10-2020) regarding the alley referral request by M. Taylor & J. Timmins BE RECEIVED and that Council CONFIRM the decision of Administration and direct that the distribution of the remaining portion of the alley proceed in accordance with Figure 3 to Report AD-10-2020.

Report

Applications were received by the Town to close and convey portions of the alley located west of McNabb Av between Stuart Blvd and Minto Av (refer to Figure 1). In accordance with municipal practice, Administration ordered a survey to identify all existing structures/encumbrances in the alley. As shown on Figure 2 attached, the survey identified a number of fences/gates/sheds/utility poles and utility infrastructure.

On review of the policy, the location of all the structures/encumbrances and considering past practices, portions of the alley were offered to the abutting owners as shown on the alley distribution plan (refer to Figure 3). Following notification to the owners of the intended distribution, M. Taylor (1685 Minto) and J. Timmins (1695 Minto) requested the matter be referred to Council for further review. The purpose of the referral is to obtain the north half of the alley located to the rear of 1445 Stuart Blvd. Attached to this report is a copy of the submissions that were received from M. Taylor and J. Timmins.

On review of the submissions, Administration would note the following comments.

The owners on Minto have noted that they were informed in the past that the alley was not available, so they constructed their fence on the property line. They have also indicated that other owners have constructed fences in the alley without permission and are then rewarded for that action. That issue was discussed by Council at length when the policy was being considered. The two basic choices were:

1. Recognize existing structures and/or encumbrances in the alley and distribute portions of the alley based on where they are located, or
2. Have owners (or the Town if owners refuse) remove all structures and then the Town could offer half of the alley to each owner.

After considering the matter, Council opted to adopt number 1 above – which is to recognize the existing structures. While this may appear to reward individuals for occupying the alley without permission, experience has demonstrated that often times the current owner did not place the structures in the alley. They purchased the property thinking they owned it, while it was a previous owner – perhaps 2 or 3 times removed that placed the structure(s) in the Town alley. Depending on the situation, a property owner may find either of the above options unfair. Certainly given the number of alleys and hundreds of properties, Administration does not have the resources to inspect every alley in detail. Administration relies on the survey, air photography, the policy and past practice. Certainly, in the event a referral is received, consideration is given to the submissions of the property owner(s) and the particular circumstances to determine if a change to the distribution is warranted.

Another issue raised by the owner on Minto is that the initial letter offered them half of the alley, then after the survey was completed, that decision was reversed. In all cases, the initial letter that is sent to the property owners makes no offer. Below is an excerpt from the Q7 alley letters in this regard:

“Pursuant to municipal policy, each owner would generally be able to acquire one-half of the alley that abuts their property. However, the exact amount of alley that may be available could vary (from all, a portion, or none) depending on the location of current encumbrances i.e. fences, sheds, pools, utilities etc. and whether any portion of the alley has been previously closed. Further, in the event that the owner located opposite your land does not want their share, you may be able to acquire that portion. When the surveyor has completed the draft Survey Plan the Town will contact you to confirm the exact amount of alley, if any that would be available for transfer to you.”

The owner on Minto also noted that there was an error on the survey. They expressed concern that the removable gate in the alley was incorrectly labelled as a fence. Since it is a gate, which is not covered by the policy and is removable, it should not be a consideration in how the alley is distributed. On review of this submission, Administration

would note the following. The survey denotes board fences with a double backslash (“//”) and chain-link structures such as fences and gates with an x (“x”). The structure in question is noted on the survey with a “x” (refer to Figure 4), suggesting an encumbrance constructed of chain-link material. Based on an inspection of the alley and pictures submitted by the owner, there is no question that the structure is a gate that can swing open. The section of the policy that is applicable to these types of encumbrances is outlined below:

4. *“Under normal circumstance where an alley is completely unencumbered, each abutting property owner would be entitled to half of the alley. However, in many instances, alleys are encumbered by structures such as sheds, fences, pools, above and below ground utilities etc. Under such circumstances, administration will review the survey plan and make a determination as to the manner in which the alley will be conveyed to property owners.”*

The policy describes a number of examples of structures such as sheds, fences, pools, above and below ground utilities etc. This list is meant to provide examples of the types of encumbrances that can be found in alleys, but certainly not meant to be an all-inclusive list. To this end, it is the opinion of Administration that the gate, regardless of the fact that it can swing open, does form a physical barrier and has delineated the boundary of the properties for several years. The gate has acted in the same fashion as a fence and has enclosed the subject portion of the alley with 1445 Stuart Blvd. The owner of 1445 Stuart Blvd. has also actively maintained the alley for a number of years.

Based on a review of the submissions and considering the policy and past practice on distributing portions of the alley, it is recommended that the referrals be denied and that Council confirm the distribution of the alley as put forth by Administration.

In the event that Council deems it appropriate to distribute the alley as requested by the owners on Minto, it is recommended that the distribution plan be amended to take into account the location of the hydro poles/transformer located in the alley (refer to Figure 5). The poles are situated approximately mid alley at the western end of the alley and approximately 5.5 feet at the eastern end. To allow for a more evenly distributed apportionment of the alley it is suggested that the alley be divided in accordance with Figure 6 attached.

As with previous alley referral requests, Council will hear from and consider the submissions of the owners who have requested the referral. In the event that Council deems it appropriate to amend the recommendation of Administration, it would be appropriate to hear submissions from any other property owner that would be affected by that decision (affected parties listed in Notifications section of the report).

Consultations

N/A

Financial Implications

N/A

Prepared By:

A handwritten signature in black ink, appearing to read "Kevin Miller".

Kevin Miller, Deputy Clerk

A handwritten signature in black ink, appearing to read "D. Dadalt".

Domenic Dadalt, Legal Counsel

Link to Strategic Goals

	Enhancing organizational excellence
	Sustain strong public services and infrastructure
	Strengthen the community's engagement with the Town
	Grow and diversify the local economy
	Build on our high-quality of life

Communications

yes	Not applicable
	Website
	Social Media
	News Release
	Local Newspaper
	Bids & Tenders
	Notification pursuant to the Planning Act

Notifications

Name	Address	Email
	1685 Minto Ave	
	1695 Minto Ave	
	1675 Minto Ave	
	1445 Stuart Blvd	
	1443 Stuart Blvd	

Report Approval Details

Document Title:	AD-10-2020 - Alley Q7 Referral - M. Taylor and J. Timmins.docx
Attachments:	<ul style="list-style-type: none">- attachments Q7 report.pdf- M. Taylor_Submission Redacted.pdf- Jeff Timmins_Submission Redacted.pdf
Final Approval Date:	Nov 30, 2020

This report and all of its attachments were approved and signed as outlined below:



Chief Administrative Officer

Joe Milicia