



The Corporation of the Town of LaSalle

To: Mayor and Members of Council

Prepared by: Domenic Dadalt, Legal Counsel

Department: Administration

Date of Report: March 3, 2021

Report Number: AD-01-2021

Subject: Closing and Sale of Alleys Policy Update

Recommendation

That the report of the Legal Counsel dated March 3, 2021 (AD-01-2021) regarding the revised Closing and Sale of Alleys Policy be received, and that the revised Closing and Sale of Alleys Policy seen in Attachment #1 be approved.

Report

In light of the review requests with respect to alley distribution under the Town's inaugural Closing and Sale of Alleys Policy (the "Policy"), Council has requested that Administration revisit and update the Policy. Before going over the proposed updates, it would be prudent to review the application of the policy since its adoption in May of 2019.

Success of the Current Policy

The Policy came into effect as a means to deal with issues that have arisen between abutting landowners under the previous system, with the incentive to the Town being the removal of liability over these numerous portions of Town-owned land being used by residents on a regular basis. To date, there have been 19 alley systems that have been processed subject to the existing Policy. Additionally, there have been a handful of transfers that have taken place on an "expedited" basis that still require input from abutting landowners following staff review of those requests.

Of the alleys that have been closed, there have been 4 review requests that have come before Council that required Council's final determination with respect to distribution. This step is the only "review" route that a resident can take with respect to any distribution proposed by administration, as Council holds the final say on the disposal of Town-owned land.

Breaking down the above figure regarding review requests even further, there have been 154 individual residential properties that have been involved in correspondence with Town staff to facilitate the final distribution and sale of alley portions. The four review requests have come from 6 residential properties. It should also be noted that two of these requesters provided information to Administration prior to the Council Meeting, leading to Administration amending the distribution and resulting in a withdrawal of the objection (alley I2 – Ulster & Elsworth).

There were also a handful of occasions where a property owner was unhappy with the initial distribution but was able to work with Administration and other abutting landowners to reach a resolution that worked for everyone, without requiring Council intervention. Given the number of successful alley distributions that were acceptable to individual residential properties (148 of 154 = 96%), it is Administration's belief that the current system has been successful thus far. However, there have been some areas identified by Council that should be addressed in an update to the Policy that will tighten the effectiveness of the Policy going forward.

There appear to have been two main points of contention raised in reviews thus far that are of primary concern to Council. These form the basis of the amendments to the existing Policy, and are summarized as follows:

Amendment #1: Precedent Rewarding Dishonest Actions

A primary issue identified by Council is the precedent being set by "rewarding" property owners who have illegally built upon or otherwise occupied lands not owned by them. Undoubtedly, the Policy was created to acknowledge existing structures (sheds, pools, fences, etc.) and allocate land around those items already in place. The alternative option here would be to adopt a policy that forces owners to remove everything from Town-owned land, re-creating the original alley width unencumbered then splitting it down the middle between rear yard neighbours.

It is Administration's opinion, based on dealing with property owners on these matters for the past year and a half, that this would lead to a significant increase in requests to appear before Council by property owners, due to the substantial number of properties that currently encumber Town-owned alleys. Additionally, it should be noted that the existing Policy does try to split the alleys down the middle wherever practicable as the first option.

In terms of a solution, if the proposed updated Policy in Attachment #1 is adopted by Council, Administration looks to curb any bad behaviour going forward with respect to actions taken by property owners on Town-owned land. In terms of looking backwards, a number of factors make it otherwise impractical to dig into the individual history of fence or structure locations between all abutting landowners. InfoLaSalle mapping is a handy resource, but depending on the time of year that aerial photography is taken, fence lines can be difficult to make out beneath trees or other foliage.

As such, Administration set out to determine how to avoid setting a precedent for current residents who may otherwise feel that they can build a fence across an alley and then be “rewarded” with the property by applying under the Alley Closing Program. It is recommended that in order to build in protection to prevent individuals from taking advantage of the Policy, Town staff utilizes the drone purchased by the Town to create a video record of the undistributed alleys. This will enable staff to review all of the alleys in detail much greater than InfoLaSalle provides, and can be completed at significantly less cost than having a surveyor attend each alley across the town and provide a survey accurate record of what is in each alley at a given point in time.

In addition to simply setting the drone loose, Administration believes that this Policy update must be effectively communicated to the Town’s residents at a very wide scale. To that end, Administration would work with the Corporate Communication and Promotions Officer, Dawn Hadre, to coordinate a means of communication to effectively state that if any fence or other structure is constructed on Town-owned property going forward, there will be no benefits realized under the alley closing policy. One possible method would be to include an insert with the tax notices with information of a similar nature. Between mass communication and enforcing the changes on a go-forward basis on future alley closing applications where violators are found, this should provide an effective deterrent and assuage concerns of abuse of the Policy.

Amendment #2: Definition of Structures

Another concern raised by residents and Council alike has been the interpretation of “structures” under the existing Policy. While the list of items currently included in the existing Policy is not meant to be exhaustive, it has been argued at times that slight deviations or distinctions of the permanence of a “fence” should allow for a removal or modification of the Policy in specific scenarios.

To avoid this, and to better align this Policy while keeping it consistent with other widely-used and approved definitions, Administration is recommending that the Policy point to the Town’s Zoning By-law, as amended from time to time. The Zoning By-law provides comprehensive and tested definitions for “Structure”, “Fence”, “Swimming Pool”, and “Accessory”, to list a few items, that would be helpful on a go-forward basis with respect to the alley Policy. This will allow for Administration to point to an existing document when explaining to residents what does and does not constitute a structure within an alley, and will additionally provide greater clarity for Council if and when a review ends up to Council’s decision.

Amendment #3: Cost of Program Participation

The initial fee for participation in the Alley Closing Program was set at \$200 per property owner, all inclusive. This means a significant amount of expenses are subsidized by the Town (surveying costs, registration of easements and deeds, staff time). With the addition of the drone being used to take video of the alleys, there will be costs associated in running the drone as well as the digital file storage of videos taken. Accordingly, Administration recommends that the fee increase to \$350 per property

owner. It should be noted that any alley closing request that staff has received an application form and currently in the queue, even if not yet reviewed by staff, will be “grandfathered” in at the current rate of \$200 per property owner, as the application was made at the time where the \$200 rate is in effect.

Conclusion

In summary, it is Administration’s belief that the current policy is successfully achieving the desired goal of conveying parcels of Town-owned land to abutting property owners at a reasonable price while reducing the Town’s liability over such lands. With that said, there are adjustments to be made based on the lessons learned over the past nearly 2 years that the Closing and Sale of Alleys Policy has been in effect, which said adjustments will ensure greater fairness and clarity on matters moving forward. It is Administration’s recommendation that the revised Closing and Sale of Alleys Policy shown in Attachment #1 be approved as municipal policy.

All of this is respectfully submitted.

Consultations

Allen Burgess – Supervisor of Planning

Erin Vallee - Paralegal

Jonathan Osborne – Manager of Engineering

Kevin Miller – Director of Special Projects

Larry Silani – Director of Development & Strategic Initiatives

Financial Implications

The increase in the fee to individual landowners will offset the new costs associated with administering the Alley Closing Program, and any surplus will allow the Town to process a greater number of alleys in a given year without a budget increase.

Prepared By:



Legal Counsel

Domenic Dadalt, Legal Counsel

Link to Strategic Goals

1. Enhancing organizational excellence - Yes
2. Strengthen the community's engagement with the Town - Not Applicable
3. Grow and diversify the local economy - Not Applicable
4. Build on our high-quality of life - Not Applicable
5. Sustaining strong public services and infrastructure - Not Applicable

Communications

If the revised Closing and Sale of Alleys Policy shown in Attachment #1 is approved by Council, there will be public notice given in the forms of social media as well as other notices such as tax bill inserts to communicate to the residents.

Notifications

Council Meeting notices to be mailed out to property owners currently involved in the review request on alley R2, namely:

Rocco and Mancini

Brett and Sandra Wagner

Ramy and Salina Tabash

Report Approval Details

Document Title:	AD-01-2021 - Alley Closing Policy Update.docx
Attachments:	- Amended Closing-and-Sale-of-Alleys-Policy 2021.pdf
Final Approval Date:	Mar 15, 2021

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



Chief Administrative Officer

Joe Milicia