



The Corporation of the Town of LaSalle

<b>Date</b>	July 4, 2019	<b>Report No:</b>	AD-07-19
<b>Directed To:</b>	Members of Council	<b>Attachments:</b>	Fig 1 - Alley Closing Policy Fig 2 - Survey Fig 3 - Alley Distribution Fig 4 - Easement Fig 5-7 - Appeals
<b>Department:</b>	Administration	<b>Policy References:</b>	Alley Closing
<b>Prepared By:</b>	Kevin Miller, Domenic Dadalt		
<b>Subject:</b>	<b>Appeals – Alley P3</b>		

**RECOMMENDATION:**

That Council deny the appeals received regarding Alley P3 and concur with the distribution as recommended by Administration (as shown on Figure 3, attached).

**REPORT:**

As Council is aware, options for a new alley closing program were presented in April of this year. In order to implement the program, Council adopted a new policy in May of this year, a copy of which is attached.

Pursuant to the policy, the location of structures and/or utilities will play a role in the disposition of the alley. Therefore, the first step in the process is to have a survey completed to identify all of the encumbrances located in the alley. Attached to this report as Figure 2 is a copy of the survey that was completed for this alley. On review of the plan, a number of items including fences, sheds, above ground utilities and an underground drainage system encumbers this alley. Four of the seven properties fronting Minto have enclosed the entirety of the alley with a fence. Further, two of the properties also have an accessory structure in the alley. In accordance with the policy, all of the alley would be offered to the lots fronting Minto. Council should also be aware that in 2018, the owners of 1135 Minto were offered the entire alley (under the previous policy) and the property was sold based on that understanding.

The balance of the alley located to the east does not have any fences or sheds located in the alley. Pursuant to the policy, this portion of the alley could be offered to each of the abutting property owners on Minto and Stuart. However, due to the location of the utility poles and guy wires, and more particularly the underground storm sewer (located in the center of the alley) it was deemed by Administration that the alley should not be split. Recognizing that the westerly portion of the alley is being conveyed to the lots on Minto and, given the offset property lines, it was decided that the remaining alley also be conveyed to the lots on Minto.

On May 28, a letter was sent to each property owner indicating what portion of the alley, if any, was being offered. In accordance with the policy, the owners were also advised that in the event they were not satisfied with Administration's decision, they could file an appeal with Council. The last day to file an appeal was June 18. Four property owners on Stuart did file an appeal on or before the last day. All other property owners either agreed or did not respond (all property owners on Minto did respond advising the Town they would take title to the entire alley). Due to the utility poles and drainage system, the entire alley will be subject to an easement (in favor of the Town and applicable utility company). Attached as Figure 4 is a copy of the easement that was provided to each property owner being offered a portion of the alley.

Each of the appealing owners were requested to submit in writing the nature of their appeal. Attached to this report as Figures 5-7 is a copy of their emails setting out the reasons for the appeal. It is noted that each of the owners did file their appeal within the required time. Four (4) appeals were received, three (3) of which provided submissions.

Administration has had an opportunity to review the submissions and would advise Council that there are no substantive arguments being put forward that would alter the original recommendation. Therefore, it is recommended that the alley distribution remain as shown on Figure 3, and that the surveyor be requested to finalize the Reference Plan and Administration complete the necessary transfer documents.

Respectfully submitted



K. Miller  
Deputy Clerk



D. Dadalt  
Legal Counsel

Reviewed by:							
CAO	Treasury	Clerks	Env. Services	Planning	Parks & Rec	Building	Fire

Figure 1



THE CORPORATION OF THE TOWN OF LASALLE  
POLICY MANUAL

<b>POLICY MANUAL SECTION:</b> Municipal Services – DSI	<b>POLICY NUMBER:</b> M-DSI-003
<b>POLICY NAME:</b> Closing and Sale of Alleys	<b>AUTHORITY:</b> 148/19
<b>DATE APPROVED:</b> May 14, 2019	<b>DEPARTMENT RESPONSIBLE:</b> DSI, Administration, Legal Counsel
<b>REVISION DATES:</b>	<b>REVIEW DATE:</b> May 2021
<b>STATUS:</b> Active	

**PURPOSE:**

To mitigate liability and provide a method to transfer portions of Town owned alleys to appropriate residents in a manner that is cost-friendly to residents.

**POLICY STATEMENT:**

The Town will allocate funds for the “alley closing program” (the Program) as part of the annual municipal budget to close and convey all open/closed alleys.

**SCOPE:**

Alleys will be closed under the Program on a first come basis up to the budgeted amount. The Program will give priority to alleys that are adjacent to existing residential dwellings. The Town may close alleys adjacent to vacant lands on a priority basis that are adjacent to existing residential dwellings and/or considered infilling in nature. Alleys that have vacant lands on either side will not be considered Priority 2 areas and not included as part of the Program until all other alleys in the Priority 1 area have been closed.



**POLICY:**

When an application is received and deemed to comply with the policy, the Town will take steps to close the entirety of the alley within the block.

Council has delegated the determination of whether an alley is surplus to municipal needs to administration. In the event a land owner does not agree with decision that is made by administration, that land owner shall have the right to appeal that decision to Council by filing a letter of appeal with the Clerk within twenty (20) days of the date of the decision.

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. In the event a land owner does not agree with decision that is made by administration, that land owner shall have the right to appeal that decision to Council by filing a letter of appeal with the Clerk within twenty (20) days of the date of the decision.

Owners may be permitted to proceed to close an alley outside the Program provided the owner undertakes to cover all costs associated with the preparation of the necessary reference plan/survey and legal fees associated with closing and registering the required deed. Where parts of an alley are closed outside the Program and meet the intent of the Town's policy, that alley will become a priority in the next budget year. In the event funds remain in the current year, the Town will initiate the closing of the balance of the alley under the Program.

In the event no applications are received by the Town to close an alley and funding remains in the current year, the Town will take steps to close alleys in the locations a determined by the Town.

In the event a property owner elects to not participate in the Program, that portion of the alley may be offered to the abutting property owner.

The Town will not convey alleys that are in or adjacent to lands that have been identified as being environmentally significant.





The program does not apply to any alley(s) that are proposed to be closed as part of any new development as outlined in a developers/severance/servicing agreement.

The Program does not apply to any alleys located within areas designated as Mixed Use Corridor; LaSalle Town Centre District; Waterfront District; Business Park District and Parkway Commercial District in the Town's Official Plan. Existing residential dwellings may be included as part of the Program at the discretion of the Town.

Alleys that are requested/required to be closed pursuant to clauses 12 and 13 above will be subject to paying the all surveying, legal and land costs. Land costs will be will be calculated based on fair market value.

Land owners who do not participate in the Program do not have permission to use or continue to use any part of the Town's alley adjacent to their property, and will be required to stop their use of the Town's property without written permission and proper insurance;

The Town retains the right to refuse, in its sole discretion, any application to close any Town-owned alley regardless of whether or not the applicant has complied with all of the policies of the Town.

## **RESPONSIBILITIES:**

Development and Strategic Initiatives department (planning) will accept applications to close an alley.

Administration will review the application to determine:

- is the alley surplus to municipal needs
- does the alley qualify for the program
- approximate timing to process application (current or future year)
- are there easements required for municipal purposes

Administration will contact all other applicable agencies to determine if easements are required. Administration will also contact all owners abutting an alley to be closed to advise that the Town will be taking steps to close the alley abutting their property, and that a surveyor will be commencing work to complete a reference/survey plan. The Town will also request that landowners indicate if they wish to participate in the program and if more of the alley becomes available if they would be interested in that additional part. After the draft reference/survey plan is prepared, administration will determine the manner in which the alley will be conveyed to each landowner. Administration will contact the landowners a second time to confirm what portion of the alley (if any) will be available to them and specify the period in which owners must respond (if not previously done) to receive the alley. In the event an owner does not respond to either letter sent by the Town of their intent to accept a portion of the alley, the Town will offer that part to the abutting owner.

At such time as the closing by-law has been passed and registered on title, the Legal department will prepare the necessary documentation and contact the owners to arrange a



meeting to collect the fee associated with the closure and transfer of the alley and to sign the transfer documents.

**POLICY REVIEW**

This policy will be periodically reviewed and updated as required. This policy must be reviewed by the stated review date and approved by the responsible department.

**REFERENCES AND RELATED DOCUMENTS:**

By-Law #8312

**ATTACHMENTS:**

n/a









## Figure 4

### EASEMENT RESERVED IN FAVOUR OF THE CORPORATION OF THE TOWN OF LASALLE

#### SCHEDULE OF EASEMENT TERMS

This is an easement in gross.

The Transferor hereby reserves unto itself, its servants, agents and assigns, a free, unencumbered, uninterrupted and exclusive easement in perpetuity on, in, over, under, across, along and through the lands designated as **Part \*\*\* on Reference Plan 12R-\*\*\*\*\*** (the "subject lands"), for the purposes of installing, maintaining, replacing, altering, cleaning, repairing, providing and operating **storm drainage system, municipal and public utilities and services**, including all appurtenances necessary or incidental thereto.

The Transferor, its servants, agents and assigns shall have the exclusive right to this easement, and no other person, corporation or agency shall be granted any right to use this easement without the prior written consent of the Transferor. The Transferor hereby acknowledges that its consent shall not be required for the use of this easement by Union Gas, Essex Powerlines Corporation or any telecommunications or cable company that has entered into an agreement with the Transferee to provide service within the Town of LaSalle.

The Transferor, its servants, agents and assigns, shall have free and unobstructed entry and access to the subject lands at all times for any and all persons, vehicles, supplies, equipment and things necessary for or incidental to the purposes of this easement.

The subject lands shall remain free and clear of any buildings, structures, concrete or asphalt paving, including swimming pools or any other structures or obstructions of any kind, including any trees, bushes, fences and other such items, and in the event any such item is placed on any of the subject lands the owner or owners from time to time of the subject lands shall be liable for the costs incurred by the Transferor, its servants, agents or assigns, in the removal of such items.

In the event the Transferor performs any works or services on the subject lands, the Transferor covenants to fill in all excavations and to restore the surface of the subject lands to the same grade level and the same condition as prior to the commencement of any construction or of any other subsequent works performed on the subject lands. The registered owners shall not alter the grade level of the subject lands without the written approval and consent of the Transferor.

Notwithstanding any rule of law or equity, and even though the works and materials for these services may become affixed to or annexed to the subject lands, the title to such works and materials shall nevertheless remain in the Transferor.

Notwithstanding the provisions of this Easement, the registered owners from time to time shall be permitted to construct and install a fence along the outside boundary limits of the subject lands, but in the event the Transferor requires access to the subject lands, the Transferor will remove the said fence if deemed necessary or appropriate to do so, which shall be done at the cost of the said registered owners, and the Transferor shall not be responsible to replace or re-install the said fence.

Notwithstanding the provisions of this Easement, the registered owners from time to time and with the written approval and consent of the Transferor may be permitted to construct a buildings or structures on the subject lands, but in the event the Transferor requires access to the subject lands, the Transferor will remove the said buildings or structures if deemed necessary or appropriate to do so, which shall be done at the cost of the said registered owners, and the Transferor shall not be responsible to replace or re-install the said buildings or structures.

## Figure 5

**Natalie Sharp**

---

**From:** c chase <[REDACTED]>  
**Sent:** Monday, July 01, 2019 10:52 PM  
**To:** Natalie Sharp  
**Subject:** Re Alley Closing -P3

Right from the beginning when the property was being offered for sale, I was willing to purchase the property. I was just waiting for the details to be ironed out.

Since this whole ordeal has started I have witnessed a normally friendly, quiet neighbourhood erupt to arguing and neighbours almost coming to blows. This was all started because the Town of LaSalle can't make up their minds about what to do with the closing of the alley between Stuart and Minto. For all this time the neighbours on Stuart and Minto have maintained the alley way. So it would only be fair that the town of LaSalle offer each neighbour equal share of the alley way for the same price.

All the neighbours that I have spoken to have all agreed that would be a the fair thing to do.

When the Town of LaSalle offers the property for 2 or 3 thousand dollars and only a couple people are willing to purchase it. Then the Town of LaSalle comes back offering neighbours on Minto the whole alley for \$200.

Seriously does that sound fair to the tax payers of the Town of LaSalle.

Thanks, Chance Chase



## Figure 6

**Natalie Sharp**

---

**From:** Lisa Taylor <[REDACTED]>  
**Sent:** Saturday, June 29, 2019 1:20 PM  
**To:** Natalie Sharp; Lisa Taylor; Jen Greenhalf  
**Subject:** appeal letter

We the residents at 1145 Stuart Blvd would like to appeal the decision of how the alley adjacent to our property was distributed. As stated in report no:AD-04-2019 Appendix A-Alley Closing Policy section b "Under normal circumstance where an alley is completely unencumbered, each abutting land 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 landowners. In the event a landowner does not agree with the decision that is made by administration that landowner shall have the right to appeal the decision to council."

Since we at 1145 Stuart were not offered our half of the alley we are requesting that this issue is reexamined and fairly distributed among neighbours so there is no unnecessary strife. I must add that these "sheds", "fences" "pools" were all put up against bylaw 6807 which states, "any person who contravenes any of the provisions (specifically #7 construct any items on) of this by-law is guilty of an offence, and is liable, under conviction, to a fine of not more than \$5000.00 for each offence...."

We are not asking to place charges on those who have violated the bylaw as we think there has been enough hardship amongst neighbours already. Instead we are simply asking that both abutting neighbours are granted the same opportunity to purchase their half of the alley at the nominal \$200.00 fee with the understanding that access be attainable for services for future maintenance for utilities and sewers.

Sincerely,  
A Resident at 1145 Stuart Blvd since 1997  
Lisa Taylor

## Figure 7

**Natalie Sharp**

---

**From:** j g <[REDACTED]>  
**Sent:** Friday, June 28, 2019 5:39 PM  
**To:** Natalie Sharp  
**Subject:** Alley Closing-P3

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Town,

This letter is in response to the proposed appointment of the alley behind my property at 1155 Stuart Blvd. I am writing to inform you that I find it only fair that we be able to purchase our half. I support my appeal for various reasons. One, being that our houses were built and here first. We have maintained your property for 14 years. Second, It's only fair to offer it to both parties. We have been great neighbours all this time and this proposal of offering it to only Minto side is totally wrong. It has created a bad feeling amongst us now. We were all in agreement when the price was too high that we would like to leave it as is. Even though some residents on Stuart were willing to pay for it. Now that the price is only \$200 for them they want it. Third, There are no existing structures behind my property in the alley. It is not our problem that residents took it upon themselves to erect permanent structures on township property. Some fences like at 1145 Stuart can be taken down and moved easily. I don't agree with how the township has agreed with the one resident wanting to purchase all of the alley, when it should be offered 50/50. Just cause he asked, he should get it? Fourth, I like to see the wildlife that comes through there. Deer are often visitors up and down there. Thanks, Jennifer and Paul Greenhalf.

Sent from [Mail](#) for Windows 10