



Response received July 23, 2020 from Richard Conte regarding Report AD-05-2020 Encroachment Agreement 1320 Hazel Street. Please note that this correspondence does not form part of Report AD-05-2020.

Erin Vallee

From: Richard Conte & Jessica Spiteri [REDACTED]
Sent: Thursday, July 23, 2020 3:30 PM
To: Erin Vallee
Cc: Domenic Dadalt
Subject: RE: July 28, 2020 Council Meeting
Attachments: Letter to Town Council.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Erin,

Pursuant to our conversation please find attached our response letter pertaining to Encroachment Agreement -1370 Hazel, being presented to Council on July 28, 2020.

Please confirm receipt of the email and attachment.

Thank you,

Richard Conte
[REDACTED]

Sent from [Mail](#) for Windows 10

To: Mayor and Members of Council
Date: July 23, 2020
Subject: Encroachment Agreement – 1370 Hazel

Dear members of Town Council,

We have been made aware of the town of LaSalle's decision to enter into an agreement with the owners of 1370 Hazel with respect to easement encroachment. While we respect the town's review of this matter we feel that the decision to enter into this agreement is unfairly disproportionate in favor of the owners of 1370 Hazel.

In April of 2017 when we decided to make LaSalle our home it was clearly identified to us on more than one occasion before and during the build process that there was an easement between 1380 Hazel Street and 1370 Hazel Street. We made the decision to purchase our home with those restrictions in mind. The information given by the builder and Town of LaSalle prior to purchase clearly stipulated what was and was not permitted on this section of land. Again and to reiterate, we made our purchase with the expectation that there was to be nothing built or placed within this easement save and except "construction of a concrete or asphalt driveway and or driveway approach" (Ref. CE691236). We confirmed this with the town before making our purchase. (Schedule of Easement Terms attached for reference)

We do not understand how within the last 4 years the owners of 1370 Hazel Street managed to circumvent the easement restrictions by pouring a concrete pad, erecting auxiliary buildings, installing hot tubs, planting trees and putting up fences. In addition, building on/altering town property, altering the grade, spreading of mulch, placing large boulders, installing a sprinkler system and other landscaping. All this without the town's approval and in contravention to LaSalle by-laws and the stipulated easement allowances.

Each one of these issues has directly affected us creating a situation that now jeopardizes the further use and enjoyment of our land and home. The issues that have risen from their actions include; flooding, standing pools of water, swarms of water born insects, shedding of water from their land and patio to our lot, obstruction of the view from inside and outside of our home, even comments from neighbors of how inconsiderate and visually unappealing it looks have all taken their toll on us.



Street View





Side View





We are caring and generous people that strive to live peacefully and seek to always contribute positively to our community and environment. We have throughout our entire build process and habitation of our home been respectful of the Town, its policies and procedures. We have always maintained open and honest communications when performing modifications to our land with the Town and surrounding neighbours.

The encroachment agreement as described in the Report letter dated July 17, 2020 identifies only some of the constructed items now within the easement, while the image in that same letter (Figure 1) does not accurately depict the situation as it exists today. The agreement seeks to recognize all items within the encroachment and only to remove those within the town's right of way. This decision deals with a small portion of the encumbrances and addresses none of the items within the easement that directly affect our land and home.

The equitable solution as proposed by The Town of LaSalle Administration reads as follows;

“Administration feels that the most equitable approach going forward is to recognize the situation as it currently stands within the easement itself while directing the said owners to remove any landscaping or fencing within the Hazel Street right-of-way. For clarity, this will allow the rearyard to remain in its current state, until the time where the Town needs to perform repairs on the sanitary line. With respect to the front yard, only the items located within the easement area may remain, while the mulch and other landscaping in the right-of-way will be removed. There is a significant amount of mulch that immediately abuts the southerly neighbour's driveway, which will help to alleviate at least some, but not all of, the concerns. The permitted use will expire when the structures or concrete areas are removed, either voluntarily by the owner or if the Town requires access to the sanitary sewer and requires their removal. Any such removal will be completed solely at the cost of the owners.

Given the above information, Administration feels that the most equitable course of action going forward is to recognize what exists within the easement and clearing up the area within the Hazel Street right-of-way”. (Report No. AD-05-2020)

While recognizing the time and consideration that went into this solution, we must respectfully disagree with Administration's approach.

Consider the following:

If Council should decide to allow the easement restricted structures within the privacy fence (Rear Yard), despite all the negative impacts to our lives and property, we would not contest it. In conceding to those allowances Council could recognize, as it currently stands, the bulk of the restricted structures within the easement and the most costly to remove. This would allow the owners of 1370 Hazel to continue to enjoy their land within the privacy fence and without interference to their benefit. That being said, the least costly and most impactful to a resolution, our property and our home would be the removal/restoration of all items constructed within the front yard easement *and* Town right-of-way;

- Front Fence
- Mulch
- Trees
- Boulders
- Shrubs
- Grading

We feel that this approach is a reasonable and fair compromise to the situation and does not delineate from the Town's objective. If put in the same situation we would ask if any of you would feel similarly about your neighbors taking liberties that affect you, your home and your property. Would you advocate for fairness under these circumstances?

In conclusion, we are asking the Town of LaSalle to consider our proposal as a fair and equitable solution to this situation.

Sincerely,

Richard Conte and Jessica Spiteri



**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 **Parts 10 and 11 on Reference Plan 12R-26325** (the "subject lands"), for the purposes of installing, maintaining, replacing, altering, cleaning, repairing, providing and operating **municipal 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, 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.

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 Transferor hereby acknowledges that the Transferees may construct a concrete or asphalt driveway and/or driveway approach over Part 11 on Reference Plan 12R-26325.