

HALIFAX REGIONAL MUNICIPALITY

BY-LAW NUMBER P-1300

RESPECTING PRIVATE WAYS

WHEREAS Susan Sheehan (now Susan Sutherland) petitioned the Council of the Municipality pursuant to the *Private Ways Act* to obtain and lay out a private right-of-way across lands at 5 Milton Drive for the benefit of her property located at 9 Milton Drive;

AND WHEREAS on March 1, 2011 the Council appointed Deborah Baker a Commissioner to consider the petition of Susan Sheehan;

AND WHEREAS on March 24, 2015 Council confirmed the report of Commissioner Deborah Baker, dated November 15, 2014, laying out a private way across the property at 5 Milton Drive for the benefit of 9 Milton Drive;

AND WHEREAS Council confirmed the award of the Arbitrators as set out in the decision of the Arbitration Panel dated November 17, 2014;

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Private Ways Act*, R.S., c. 358, as follows:

Short Title

1. This By-law shall be known as By-law P-1300 and may be cited as the *Private Ways By-law*.

Charge Imposed

2. Where Council pays the compensation award and expenses in respect of this petition for a private way, a charge is hereby imposed and levied on the owner or owners of the real property as more particularly described in Schedule "A".

Amount of Charge

3. The amount of the charge levied pursuant to Section 2 is the sum of clauses a, b, c, and d determined as follows:

(a) the compensation award of one-hundred and sixty-eight thousand, four hundred and seventy-seven dollars and fifteen cents (\$168,477.15);

(b) the arbitration costs of fifty-three thousand, five hundred and fifty-four dollars and eighty-six cents (\$53,554.86);

(c) the harmonized sales tax on the arbitration costs of eight thousand and twenty-eight dollars and sixty-six cents (\$8,028.66); and

(d) interest as calculated pursuant section 5.

Lien

4. (1) A charge imposed pursuant to this By-law constitutes a lien upon the real property with respect to which the charge has been levied in the same manner and with the same effect as taxes.

(2) A charge imposed pursuant to this By-law is collectable in the same manner as taxes and at the option of the Treasurer is collectable at the same time and by the same proceedings as taxes.

(3) The lien provided for in this By-law shall come into force six (6) months from April 8, 2015.

(4) The lien provided for in this By-law shall remain in effect until the charge plus interest has been paid in full.

(5) Where a property subject to a lien is subdivided, the amount of the charge plus interest then unpaid shall be apportioned equally among the subdivided lots.

Interest

5. (1) Interest shall accrue and be payable annually on the total principal outstanding regardless of whether the owner has elected to pay by installments on charges outstanding from the date of billing forward at a rate equal to the prime rate of the Municipality's banker plus two percentage points.

(2) For the purposes of subsection (1), interest shall begin to accrue six (6) months from April 8, 2015.

Installments

6. The amount payable may at the option of the owner of the property be paid in equal annual installments over a period not exceeding thirty years and the whole balance becomes due and payable in case of default of payment of an installment.

Exemption and Deferral Not Allowed

7. The amount charged pursuant to this By-law is not eligible for Tax Deferral or Tax Exemption.

Done and passed in Council this 21st day of July, 2015.

MAYOR

MUNICIPAL CLERK

I, Cathy Mellett, Municipal Clerk for the Halifax Regional Municipality, hereby certify that the above-noted by-law was passed at a meeting of the Halifax Regional Council held on July 21, 2015.

Cathy Mellett
Municipal Clerk

SCHEDULE "A"

All that lot, parcel or piece of land situate on the Western side of the North West Arm in the County of Halifax fronting on the shore of the said North West Arm and more particularly described as follows, that is to say:

Commencing at a post on the shore of the North West Arm three feet north westwardly from the southern boundary of land formerly owned by one Yeadon;

Thence running south eastwardly along the shore of the said North West Arm fifty-four feet;

Thence westwardly one hundred and forty seven feet;

Thence northwardly to a post thirty-four feet;

Thence eastwardly one hundred and sixty-one feet to the place of beginning.

Also, a free and uninterrupted way (appurtenant to the said lands) unto the Grantee, his heirs and assigns with the right to construct and build a carriage road of the width of an ordinary carriage road to lead from a point three feet south from the north west corner of a lot hereby conveyed through and over the property now or formerly owned by one Amos Slaughenwhite along the southern boundary of said Yeadon's property until it meets the road leading from said property of Amos Slaughenwhite to the main road, together with a free and uninterrupted right of way and passage upon and along and over the carriage road hereby to be constructed with full right to ingress and egress and way to and for the Grantee, his heirs and assigns, and his and their agents, servants, and tenants-and the occupiers for the time being of the land hereby conveyed and all other persons with or by leave of them over, upon and along the said carriage road hereby to be constructed and also with full liberty for the Grantee, his heirs and assigns to pass and repass from time to time hereafter through, upon, over and along the said carriage road with or without horses, cattle and other animals, carts, carriages, wagons, sleighs and other conveyances, goods and other things to and from the land and premises first above described from and to the main road or public highway,

(2) Also, all that lot, piece or parcel of land situate on the west side of the North West Arm aforesaid fronting on the shore of the North West Arm and more particularly described as follows:

Commencing at the south eastern corner of the lot, piece or parcel of land hereinbefore described;

Thence running southwardly along the shore of the said North West Arm ten feet or until it comes to a stake marked A;

Thence westerly one hundred and forty-seven feet or until it comes to a stake marked with the letter B;

Thence northerly ten feet or until it reaches the south western corner of the said hereinbefore described lot of land;

Thence eastwardly along the southern boundary of said hereinbefore described lot of land one hundred and fifty-seven feet or to the place of beginning.

The said above-described lots of land being the same lots that were conveyed by deed from H. M. Bradford et al, to R. T. MacIlreith and duly recorded in the Registry of Deeds Office at Halifax in Book 328, folio 307 on June 10, 1898 and also by Deed from Amos Slaughenwhite to R. T. MacIlreith Book 332 Folios 355, 356, 357, and any rights which the Vendor may have in any water lot and lands adjacent to the said property, but

Subject to the easement of public foot path across the front of the property as the same existed on December 31, 1953.

Together with an easement appurtenant to the said lands for persons, animals and vehicles over that existing foot path easement or public right of way from the northern boundary of the said lands to the southern boundary of Milton Drive (so-called) and over it to the Dingle Road (so called) for the use of the Grantee, his heirs and assigns for all purposes at all time of the day or night.

Notice of Motion:	June 2, 2015
First Reading:	June 16, 2015
Notice of Second Reading Publication:	July 4, 2015
Second Reading:	July 21, 2015
Approval of Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	July 25, 2015