

April 29nd, 2024

Municipality of Tweed Council  
255 Metcalf Street  
Tweed, Ontario  
K0K 3J0

Dear Mayor DeGenova and Council Members,

As you know, Telecom currently has a contract to put in 5G on behalf of Bell. Such is a result of a Provincial and Federal governments subsidised high-speed internet program to bring advanced fiber optic broadband communication infrastructure and services to our home. Work has commenced on our road but halted as a result of a bigger legal issue. As it stands right now, we as residents do not have any legal right to provide the contractor with authority to continue or even stop work. Bell plans on providing residents with a waiver to sign, but we are not the legal authority to authorise such work to continue, enclosed is a copy of the waiver. This matter of legal responsibility has been brought before the old mayor and council on a previous occasion, and now this situation, is one of the many examples of how this needs to be dealt with.

We last appeared before the council on November 26, 2019 at 5pm, this was prior to the current council being elected. During that meeting, it was our 2nd time submitting new information to council in an attempt to collaborate in finding a solution to the road maintenance and ownership issue. At the meeting, we were advised that the council was to seek legal opinion from a lawyer to determine ownership of "Westall Lane". Property owners on Westall Lane, then received a letter dated February 19, 2020, from Cunningham Swan Lawyers presenting themselves as your legal counsel, the letter is included herein for your reference.

Now, you ask, why are we revisiting the issue again, 4 years later???? Unfortunately, with Covid, pursuing this issue forward at the time was not really an option and we were told in the letter from your legal representation that "... this matter has been raised a number of times before Council. As we interpret the Procedural By-law, similar requests should not be permitted to be brought before Council in the future. Only if the Clerk determines that new information is available would this rule be relaxed."

Now that being said, as we understand it, the old road manager at the time, Al Broeke, gave permission to the said company (Vaughn at Telecon) to perform such work on roadways within the Municipality and never advised him of a private road issue, in fact, Telecom did not know of this issue at the time of writing and they still do not know who owns the road. Clearly the chaos around the road ownership issue permeates even a senior municipal staff member. Telecom recently commenced work on "Westall Lane" causing quite the bit of concern, as property owners on the road were not notified of work to be done until a concerned property owner made a phone call to the current roads manager Ryan Reid. This caused work to halt.

Why you may ask? Well to properly answer that, we need to go back to documentation previously submitted to council that has not been properly addressed or reviewed. **Who has**

**the legal right to provide permission to install or halt this 5G network on "Westall Lane"?** We as property owners on "Westall Lane" and tax payers have the right to the Provincial and Federal governments subsidised high-speed internet program to bring advanced fiber optic broadband communication infrastructure and services to our home, but this presents a bigger problem to residents of "Westall Lane".

Some problems appears to be, but are not limited to;

- Who has the authority to provide permission to perform such work? Who has the authority to halt such work? As mentioned before, it appears that Telecom was given authorization by the Municipality. As of now, a significant amount of work has been done, which in order for it to continue, the proper legal entity would need to provide such permission, which until now appears to have been the Municipality. We believe that information provided to you in this letter will help prove that the Municipality of Tweed should accept legal ownership of the road. This is a legal issue that has been addressed to council in the past but has now become a very real issue.
- As taxpayers, we paid into this government funded improvement but may be denied services for the lack of proper permissions, because of a legal title issue that has been addressed and should have been dealt with in the past. We also pay our taxes like everyone else and don't have a very basic service of road maintenance.
- Now that lines are in the ground, how are residents to proceed? What if washouts occur as a result of such work? Who is responsible for the costs and continuing maintenance?

Information provided below, supports the fact that the legal representation and ownership of this road needs to be resolved. We are requesting that the legal ownership of Westall Lane be transferred to the Municipality of Tweed based on subsequent information. Information below is enough documented and registered information to prove that the Municipality should take over and legally acknowledge ownership of the road.

Let's look at the letter enclosed herein from your legal council dated February 19, 2020.

1- On the said letter, they advised us that "The Municipality is not the owner of this private lane". We would like to make something clear, we are not a private road, a private road is defined by Noah Potechin of Merovitz Potechin LLP in his article published December 22, 2014 (Attached herein) as follows:

"That means that the municipality has not taken responsibility for the road. The road is owned by a collection of all of the owners of the houses on the private road. Each owner will own a share of the road"

As presented to council on previous occasions, none of the property owners on "Westall Lane" have registered ownership of the north or south portion of the lane. So it's clear, we do not fall within the definition of a private road.

2- In the third paragraph of the said letter the lawyer wrote:

“ Based on the information available to us, it appears that the Lane was never owned (with an exception of an error in conveyancing, now corrected) by the Municipality and the Municipality never maintained it”

This information is incorrect, based on the following registered documentation with the Land Registry Office as well as your own By-laws. Below are instances whereas it clearly states that the Lane in question is a **Travelled Township Road, Forced Township Road and/or Old Township Road**. This information was either provided to you, or by your offices, so it should have been made available to your lawyer. We requested that these matters be looked at yet, which is why the council was to seek legal advice yet the individual matters were never addressed. Below are just some instances, whereas it clearly states ownership:

- Property Index Map Block 40257 clearly shows the Lane as a “Travelled Road” dated July 1, 2008.
- A letter presented to council by us on September 10, 2019 included Reference Plan 21R12178 dated April 19, 1989 and included as Appendix “D”. The said plan clearly states “Forced Township Road”. This applies to the North Portion of the Lane.
- Reference Plan 21R11830 states that it's a “Township Road (as Travelled)”. This applies to the south portion of the Lane.
- By-Law 88-5, The Corporation of the Township of Elzevir and Grimthorpe dated July 20, 1988.
- Document General Registered on Dec 1, 1988 bearing instrument # 406277. This was provided in the Carol Casey Title Search dated September 24, 2019.
  - Page 2, paragraph 1, it states “Travelled Township Road”
  - Page 2, paragraph 2, it states “unmaintained municipal road”

There are many instances, as mentioned above, and in previous meetings, where it is clear that the aforementioned Lane is clearly documented as a Township Road in one way or another. It was documented as a Township Road and should be grandfathered in, as it was acknowledged as such prior to any road standards that you may now have. It is also clear that the entire lane is designated as a roadway to allow access to property owners on the Lane. What is not clear, is how it came to be that it was not maintained. You have yet to provide us with any bylaw or documentation changing the status/use and name of the entire road. Property owners on the north portion of the lane, currently have no registered interest or ownership in the lane, or legal requirements to maintain it. There's lots of documentation stipulating it is a road and we will continue to use it as such.

Lastly, in the Minutes of meeting held on March 11, 2020, it has been brought to my attention that Reavie Lane, now renamed Old Ross Road has become municipally maintained as of

May 1, 2020. This is relevant because they were on the delegation at the same time as us and had very similar issues to ours.

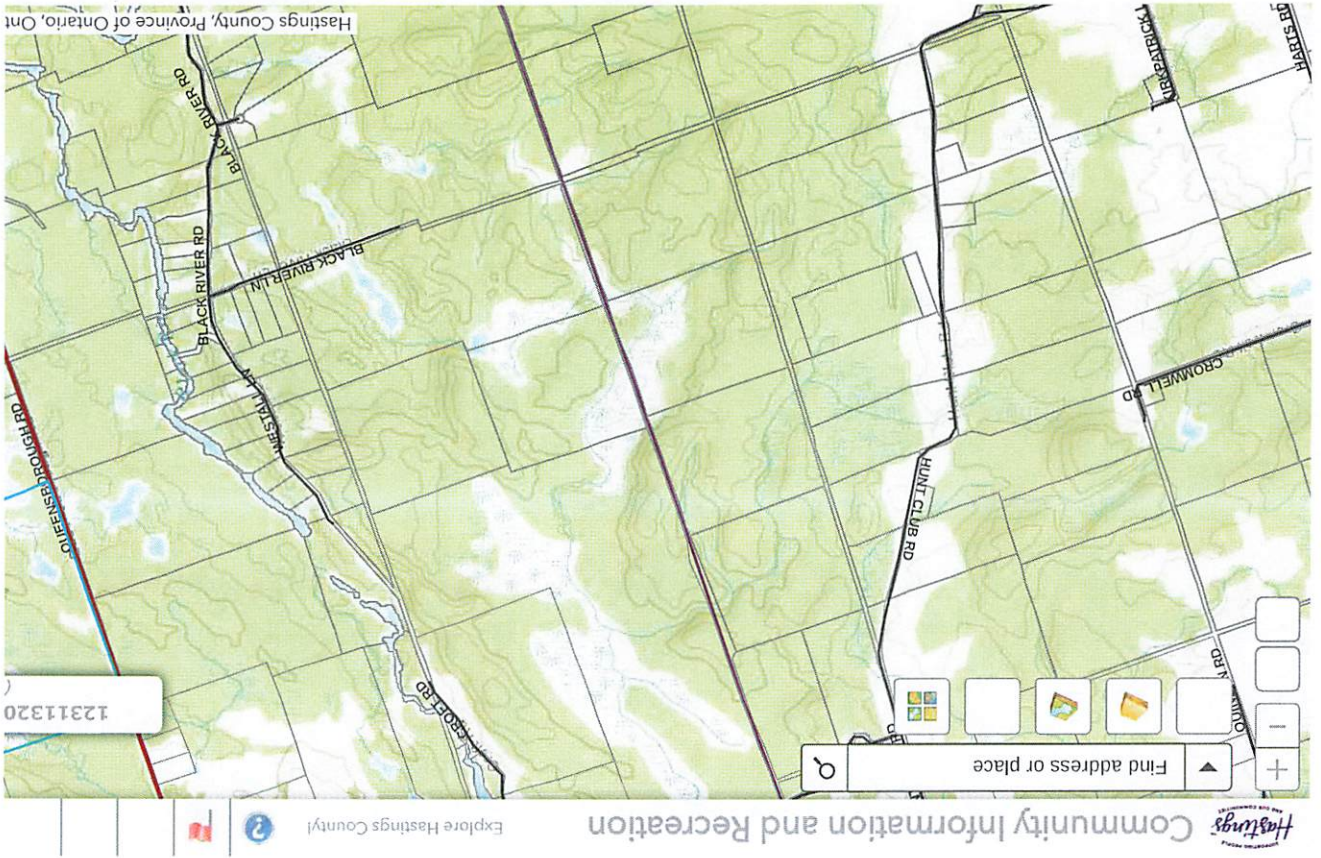
- Please refer to all of the staff report dated October 9, 2019. As per Reavie, we are also identified as a road on block maps and R-plans; when title searching adjoining lands as mentioned above, no neighbouring properties have a registered ownership in the roadway. And when the land was surveyed, again it appears that for some reason the roadway was not registered.
- Title search performed by Carol Casey also mentions that in both cases the reference plan shows it as a travelled road and in our case Forced Township Road and Travelled Road, and again, neither cases show that the property owners have deeded ownership of the road.
- Also, there is no documentation providing that our road is anything but a Township Road, Forced Township Road or Travelled Road.

Our position is clear, it is evident that there is enough legal documentation stating that "Westall Lane" is a Township Road, it has been documented since 1988 as such, in various legal documents previously mentioned. Nowhere do any legal documents state it's a private road, and it should not be treated as such. We are making a request to the current council to municipally maintain Westall Lane and to rectify the legal ownership and responsibility of such so that we may be provided with 5G services as per the grant and so that we may continue to use our road without disruption.

We appreciate your time to consider this matter, and look forward to working with you to help rectify this situation.

Thanks,

Melissa Kloetstra  
and John Dorion  
Property owners on Westall Lane



0.6km  
0.4mi  
-77.383 44.558 Degrees





## INFRASTRUCTURE UPGRADES

NAME AND MAILING ADDRESS

DATE:

RE: Construction \_\_\_\_\_ (Location)

Dear \_\_\_\_\_, (Owner)

Kindly accept this letter as part of Bell Canada's notification process for work that will be conducted as part of the Provincial and Federal governments subsidized high-speed internet program to bring advanced fiber optic broadband communication infrastructure and services to your home. This work is estimated to begin in 2024.

Bell Canada's approved vendor Pickard Construction and UTS Consultants will be responsible for completing the design and construction work. Bell will attempt to use all existing infrastructure when placing the new facilities, in order to minimize the impact on your property.

Please note that this work will be done at no cost to you with no obligation to sign up for service upon completion.

In addition, the work will not affect your existing services and all landscaping will be restored to its original condition. In the event that restoration is complete but later requires additional attention, we will ensure to follow up and make all needed repairs. Bell Canada and its approved vendor will warranty all restorations.

We sincerely apologize for any inconvenience the construction may cause and hope to complete our work as soon as possible. If you have any questions, comments or concerns, please do not hesitate to contact Bell Canada directly at email address \_\_\_\_\_.

Should you have questions about the proposed work, please contact Vaughn Windeler at 905-375-4695 or at [vaughn.windeler1@bell.ca](mailto:vaughn.windeler1@bell.ca).

If you grant permission for us to proceed, please notify Bell Canada at \_\_\_\_\_. Please quote job network number \_\_\_\_\_ and your address in the subject line.

**If we do not hear from you by \_\_\_\_\_, 202\_\_, we will assume your acknowledgment of the planned works and will proceed with construction as planned.**

Please be advised that if you decide not to take advantage of this opportunity, your property will not be included in this subsidized project and any future costs to extend fiber to your residence may apply.

Thank you,

BELL CANADA



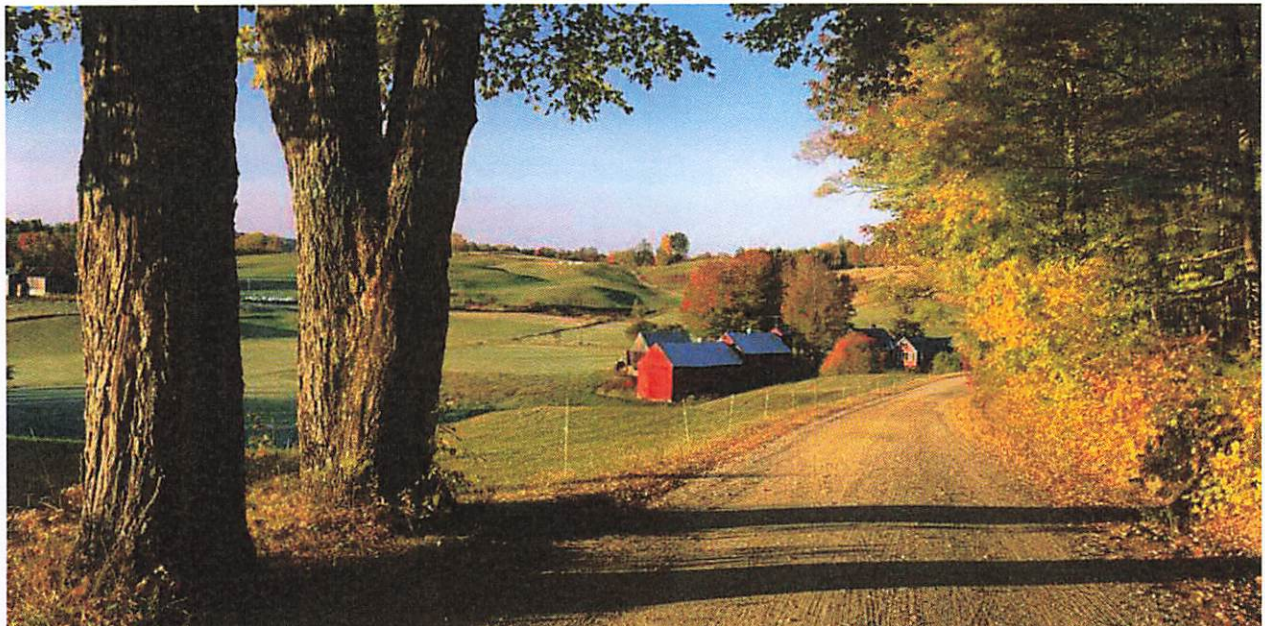
# MEROVITZ POTECHI

Categories

## What You Should Know About Private Roads

Category: [Real Estate Law](#)

By [Noah Potechin \(Of Counsel\)](#) of Merovitz Potechin LLP on Monday December 22, 2014.



Private roads are being used more frequently in recent years in Ontario. When a residential house is situated on a private road and a purchaser offers to buy that residential house, the purchaser should be aware of several associated realities.

## **Who owns private roads?**

First, the house is not on a dedicated municipal road. That means that the municipality has not taken responsibility for the road. The road is owned by a collection of all of the owners of the houses on the private road. Each owner will own a share of the road. The owners may also own other common areas, such as open space and visitor parking areas.

The owners will usually collectively hire a property manager to maintain the road and any associated green space. That is just the first expense in a series of expenses that the purchaser may not have been fully aware of. The property manager creates a budget and charges a fee to each owner to cover the common expenses of that shared property.



Tony E. Fleming  
Direct Line: 613.546.8096  
E-mail: tfleming@cswan.com

February 19, 2020

***Delivered by: Regular Mail***

Philip Andrew Kloetstra  
Melissa June Langlois  
213 Westall Lane RR3  
Tweed, Ontario  
K0K 3J0

Dear Philip and Melissa:

**RE: Westall Lane – Ownership Opinion  
Roll No. 12-31-132-015-10905-0000  
Our File No. 33720-3**

We are the lawyers for the Municipality of Tweed. We are instructed to provide this letter setting out our opinion with respect to the ownership of Westall Lane and the obligations of the Municipality.

It is our opinion that the Municipality is not the owner of this private lane. We reviewed all necessary title documents and agreements related to the Lane to arrive at this opinion.

Based on the information available to us, it appears that the Lane was never owned (with the exception of an error in conveyancing, now corrected) by the Municipality and the Municipality never maintained it. As such, there is no legal obligation for the Municipality to maintain the Lane currently. We are further advised that this matter has been raised a number of times before Council. As we interpret the Procedural By-law, similar requests should not be permitted to be brought before Council in the future.

Only if the Clerk determines that new information is available would this rule be relaxed.

Sincerely,

**Cunningham, Swan, Carty, Little & Bonham LLP**

A handwritten signature in dark ink, appearing to read 'Tony E. Fleming', with a long, sweeping horizontal stroke extending to the right.

Tony E. Fleming, C.S.

LSO Certified Specialist in Municipal Law

(Local Government / Land Use Planning)

Anthony Fleming Professional Corporation

TEF:ks