

February 24, 2022

To: Property Standards Committee, Toronto and East York Panel

Good Morning,

I act for Scott O'Hara, who is the registered owner of 67 Riverview Gardens. For the sake of clarity, I am writing to confirm that my client is also relying on the documents were contained in his Notice of Appeal dated December 29, 2021. I have attached the Notice of Appeal, with its enclosures here. In reviewing the City's website, I note that the copy of the Notice of Appeal posted to its site is missing the last 2 pages from the attached file, which we the attachments to Mr. Ellis's December 2, 2021 email to Mr. O'Hara and others (Tab 4 in the attached file).

Thank you,

Rob Macdonald



Robert B. Macdonald

Partner
Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, P.O. Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
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Toll Free: 1.866.861.9700
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December 29, 2021

Reply To: Robert B. Macdonald
Direct Dial: 647.729.0754
E-mail: rmacdonald@foglers.com
Our File No. 211533

REGISTERED MAIL

Property Standards Committee, Toronto and East York Panel, City Clerk's Office
City Hall, 2nd Floor
100 Queen Street West
Toronto, ON M5H 2N2

Dear Sirs/Madams:

**Re: Property Standards Order dated December 9, 2021, Folder # 21 245428 PRS 00 IV
67 Riverview Gardens, Toronto, PLAN 2714 LOT 24 W PT LOT 42**

We are counsel to Mr. Scott O'Hara, who owns the property known as 67 Riverview Gardens, Toronto.

Please accept this letter as Mr. O'Hara's appeal to the Property Standards Committee from the Order to Comply dated December 9, 2021, Folder No. 21 245428 PRS 00 IV (the "**O'Hara Order**") which requires Mr. O'Hara to "obtain permits from Toronto Regional Conservation Authority and Toronto Buildings for the permanent repair, stabilization or reconstruction of the shared retaining wall with 69 Riverview Gardens and 54 Rivercrest Road by no later than January 28, 2022". The O'Hara Order requires Mr. O'Hara's compliance by January 28, 2022. A copy of the O'Hara Order is attached as **Tab 1**.

The basis for Mr. O'Hara's appeal is set out below.

1. Background

Mr. O'Hara purchased 67 Riverview Gardens in 2016. He lives there with his partner and their young children. When he bought 67 Riverview Gardens, Mr. O'Hara obtained a survey of the property (the "**First Survey**") (**Tab 2**). Both the First Survey and a visual inspection of 67 Riverview Gardens confirmed that the retaining wall at issue in the Property Standards Order sits outside of the boundary lines for 67 Riverview Gardens. The retaining wall sits entirely on 54 Rivercrest Road, Toronto, which property sits adjacent to, and to the east, of 67 Riverview Gardens. 54 Rivercrest Road is owned by Mr. Paul Dallas.

2. The Dallas Order

On July 24, 2020, the City of Toronto issued a Property Standards Order, Folder No. 20 171908 PRS 00 IV to Mr. Dallas to repair the retaining wall (the "**Dallas Order**") on the basis that it was in violation of Toronto Municipal Code, Chapter 629, Section 629-14, which states:

Retaining walls shall be structurally sound and plumb, unless specifically designed to be other than vertical, and shall be maintained in good repair and free from hazard.

Section 629-14 makes clear that responsibility for maintaining the retaining wall lay with Mr. Dallas, or his predecessors in title, given that wall sits entirely on 54 Rivercrest Road.

Mr. Dallas appealed the Dallas Order. Despite acknowledging that the retaining wall sits on 54 Rivercrest Road, Mr. Dallas asserted that Mr. O'Hara and the owner of 69 Rivercrest Road ought to be responsible for repairing the retaining wall. As part of his attempt to have the Dallas Order rescinded, Mr. Dallas directed his counsel to prepare an unissued application to the Superior Court of Justice, seeking, among other things, a declaration that Mr. O'Hara and the prior owners of 67 Riverview Gardens had acquired the land on which the retaining wall sits through a novel application of the law of adverse possession (the "**Court Application**"). As part of the Court Application, Mr. Dallas acknowledged that the retaining wall sits on 54 Rivercrest Road. A copy of the Court Application is attached as **Tab 3**.

We understand that Mr. Dallas's appeal to the Property Standards Committee was ultimately dismissed or abandoned. Similarly, Mr. Dallas formally abandoned the Court Application.

3. The O'Hara Order

On December 2, 2021, the City wrote to Mr. O'Hara and indicated that it had received a copy of a new survey (the "**Second Survey**") and a topographical image which, the City believed, showed that some portions of the retaining wall sit on Mr. O'Hara's property and 69 Riverview Crescent, and not just on 54 Rivercrest Road. Copies of the City's email, the Second Survey and the topographical image are attached as **Tab 4**. The City also indicated that, based on the information depicted in the Second Survey and the topographical image, it would proceed to issue the O'Hara Order.

The Second Survey does not appear to suggest that the location of the boundary lines between 67 Riverview Gardens and 54 Rivercrest Road are different from those depicted in the First Survey. Rather, the difference with the Second Survey and the topographical image is that they depict that certain portions of the retaining wall sit on 67 Riverview Gardens and 69 Riverview Gardens, as opposed to sitting entirely on 54 Rivercrest Road.

Mr. O'Hara does not accept the information contained in the Second Survey or the topographical image. Specifically, he does not accept that portions of the retaining wall sit on his property. Rather, a visual inspection of the retaining wall suggests that, at its base, the retaining wall continues to sit entirely on 54 Rivercrest Road, as depicted in the First Survey. The retaining wall follows the boundaries between 54 Rivercrest Road and 67 Riverview Gardens closely. What the Second Survey and the topographical image appear to depict is that portions of the retaining wall, above the ground, have moved such that the upper portion of certain sections of the retaining wall now stick out and overhang across the boundary line, and over 67 Riverview Gardens.

Despite the importance of the Second Survey and the topographical image to the City's decision to issue the O'Hara Order, the City has not advised Mr. O'Hara who prepared the Second Survey and the topographical image, or why they were created. Further, Mr. O'Hara has not been given a reasonable opportunity to investigate or test the information depicted in the Second Survey or the topographical image. It is entirely unclear if the City has investigated the depictions in the Second Survey and the topographical image, and whether the retaining wall is *actually* on 67 Riverview Gardens, such that it had appropriate authority to issue the O'Hara Order.

Mr. O'Hara respectfully submits that the City ought not to have issued the O'Hara Order for the following reasons:

1. The retaining wall does not sit on 67 Riverview Gardens. Its base appears to sit entirely on 54 Rivercrest Road;
2. Neither Mr. O'Hara nor the prior owners of 67 Riverview Gardens were responsible for maintaining the retaining wall. Responsibility for maintaining the wall lay with the Dallas's, and the prior owners of their property in accordance with Toronto Municipal Code, Chapter 629, Section 629-14 (excerpted above);
3. The Dallas Order was issued because the retaining wall is failing. There are sizeable gaps and cracks in it. Those issues are the result of the failures of Mr. Dallas and his predecessors in title to maintain the retaining wall, as required by Chapter 629, Section 629-14;
4. Even *if* the retaining wall has moved to such an extent that it is now overhanging 67 Riverview Crescent, the retaining wall cannot be said to be *on* 67 Riverview Crescent, such that Mr. O'Hara bears legal responsibility for repairing the wall. Similarly, if the retaining wall is not on 67 Riverview Crescent, the City did not have authority to issue the O'Hara Order;
5. If the O'Hara Order is not rescinded, Mr. O'Hara will bear the legal and financial responsibility (or the partial responsibility) for repairing a retaining wall that belongs to 54 Rivercrest Road because of the non-compliance that resulted in the poor condition of the wall in the first place.

There are also good policy grounds for rescinding the O'Hara Order. The City's apparent logic in issuing the O'Hara Order creates a perverse incentive for property owners to allow retaining walls to fail entirely, rather than maintaining them. By the City's logic, the owner of 54 Rivercrest Road would be incentivized to allow the retaining wall to fail entirely, rather than maintain it. If the wall were to fail entirely, its remains would sit on the ground of 67 Riverview Gardens, and would be Mr. O'Hara's problem to fix.

For these reasons, Mr. O'Hara asks that the O'Hara Order be rescinded under section 15.3 (3.1(1)) of the *Building Code Act, 1992* and section 21.2(1) of the *Statutory Powers Procedure Act, 1990*.

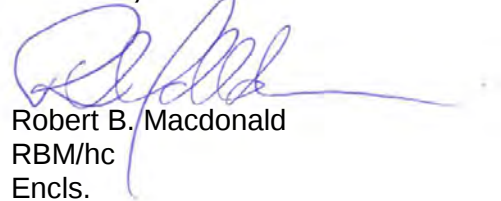
In the alternative, Mr. O'Hara asks that the deadline for him to comply with the O'Hara Order be extended so as to allow him an appropriate amount of time to investigate the information depicted in the Second Survey and the topographical image. Our firm has retained an engineer in order to investigate the wall, and the depictions contained in the Second Survey and the topographical image, and to produce a report on his findings.

The retaining wall is significant in size. Its repair or replacement will likely be very costly. As such, these issues are of significant importance to Mr. O'Hara and his family.

We would be pleased to respond to any questions the Committee may have, or to make such further submissions as the Committee may request as it considers Mr. O'Hara's appeal.

Yours truly,

FOGLER, RUBINOFF LLP



Robert B. Macdonald
RBM/hc
Encls.

cc: Scott Venton, Fogler, Rubinoff LLP (*via email*)
Scott O'Hara (*via email*)

Order issued to:

SCOTT O'HARA
67 RIVERVIEW GDNS
TORONTO, ON M6S 4E6
CAN

PROPERTY STANDARDS ORDER

Issued pursuant to Subsection 15.2(2) of
the *Building Code Act, S.O., 1992 Chapter 23, as amended.*

Date issued: December 9, 2021
Folder #: 21 245428 PRS 00 IV
RN

Address to which Order Applies: 67 RIVERVIEW GDNS
Legal Description: PLAN 2714 LOT 34 W PT LOT 42
Roll Number: 1914081040023000000

The above referenced property, which is owned by you or in which you have an interest, was inspected by a Bylaw Enforcement Officer on or about April 7, 2021 . This inspection found conditions on the property which are contraventions of the standards prescribed by Toronto Municipal Code, Chapter 629, Property Standards.

You are hereby ordered to correct the contraventions listed below in order to bring this property into compliance with the prescribed standards by the dates identified for each contravention.

Item #	Bylaw Section	Location and Description	Required Action	Compliance Date
1	14.	East Side of Property: The retaining wall is not being maintained in good repair.	Obtain permits from Toronto Regional Conservation Authority and Toronto Buildings for the permanent repair, stabilization or reconstruction of the shared retaining wall with 69 Riverview Gardens and 54 Rivercrest Road.	January 28, 2022

Order issued by:

Name: Michael Antoniou **Telephone:** 647-333-5012 **Email:** Michael.Antoniou@toronto.ca

Address: 433 Eastern Ave, 2nd Floor

Contacting the Investigating Officer

If you wish to speak to the investigating officer directly, you may do so in accordance with the contact information provided at the top of this document. **However**, if you have difficulty reaching the officer for any reason, you may contact our ***Investigation Support Unit at 416-397-4150***, Monday to Friday between the hours of 8:00 AM to 4:30 PM.

Appeal Procedure

An owner or occupant who has been served with an order made under subsection 15.2(2) and who is not satisfied with the terms and conditions of the order may appeal to the Property Standards Committee by sending a notice of appeal by registered mail to:

Property Standards Committee, Toronto and East York Panel, City Clerk's Office
City Hall, 2nd Floor
100 Queen Street West
Toronto, ON M5H 2N2

on or before December 29, 2021, stating your grounds for appeal. A \$288.75 non-refundable fee is required (make certified cheque or money order payable to Treasurer, City of Toronto).

In the event that no appeal is made within the above time frame, the Order shall be deemed to be confirmed and shall be final and binding upon you.

You are further advised that, all correspondence received and collected by the City of Toronto relating to an appeal is maintained for the purpose of creating a record that is available to the general public under section 27 of the Municipal Freedom of Information and Protection of Privacy Act.

Inspection Fees

Should compliance to this Order not be achieved as specified, inspection fees will be charged in accordance with Municipal Code Chapter 441 - Fees and Charges, Appendix C - Schedule 12. Chargeable inspections will be invoiced every 30 days. This fee is subject to an annual inflationary increase.

Remedial Action

Where it has been determined that the necessary repairs have not been completed in accordance with this Order, the City of Toronto may cause the property to be repaired, in addition to any possible court action. The costs of such action and any other applicable fee may be registered as a lien on the land and shall be deemed municipal property taxes. Additionally, the Clerk of the Municipality may add the costs to the collector's roll. Collection will occur in the same manner, with the same priority as municipal real property taxes.

Method of Repair

All repairs and maintenance of property required by the standards prescribed by the Code shall be carried out in a manner accepted as good workmanship in the trades concerned and with materials suitable and sufficient for the purpose. No person shall use, occupy, permit the use or occupancy of, rent, or offer to rent, any property that does not conform with the standards prescribed in this chapter.

Required Permits

Where a permit is required to undertake any repair required to conform with the standards as prescribed in this Order, it is the responsibility of the Owner to obtain any such permit. Please contact your local **Toronto Building Services office by calling 311**. In addition, information related to the requirements for a permit can also be found at http://www.toronto.ca/building/building_permits.htm.

Hiring Building Contractors/Trades People

An owner or operator shall demonstrate that they have retained or used the services of a certified tradesperson where required by law, for activities including but not limited to servicing heat, ventilation, air conditioning and plumbing systems. Please ensure that any contractor you may hire has the required license(s). For further information you can contact Municipal Licensing and Standards, Licensing Services East York Civic Centre, 850 Coxwell Avenue, Third Floor, Toronto ON M4C 5R1 Licensing Services Call Centre: (416) 392-6700 or <http://app.toronto.ca/LicenceStatus/setup.do?action=init>

Note:

- Failure to comply is an offence which could result in a fine. [Building Code Act, 1992, s. 36]

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

PAUL DALLAS and JILL DALLAS

Applicants

- and -

**SCOTT O'HARA and MICHAEL SIMONE and SALIMA
RAWJI**

Respondents

Application under Rule 14.05 of the Ontario *Rules of Civil Procedure* and

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing

- ☒ In person
- ☐ By telephone conference
- ☐ By video conference

at the following location: 330 University Avenue, Toronto, Ontario, on a date to be set by the registrar, at 10:00am.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of

service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by _____
Local Registrar

Address of
court office: 330 University Avenue, 8th Floor
Toronto ON M5G 1E6

TO: Scott O'Hara
c/o PNB Law Group
110 Adelaide Street East, 4th Floor
Toronto, ON M5C 1K9

Cameron Paulikot
Tel. 647.362.6691 ext. 1
Email: cameron@pnb.legal

AND TO: Michael Simone
69 Riverview Gardens
Toronto, ON M6S 4E6

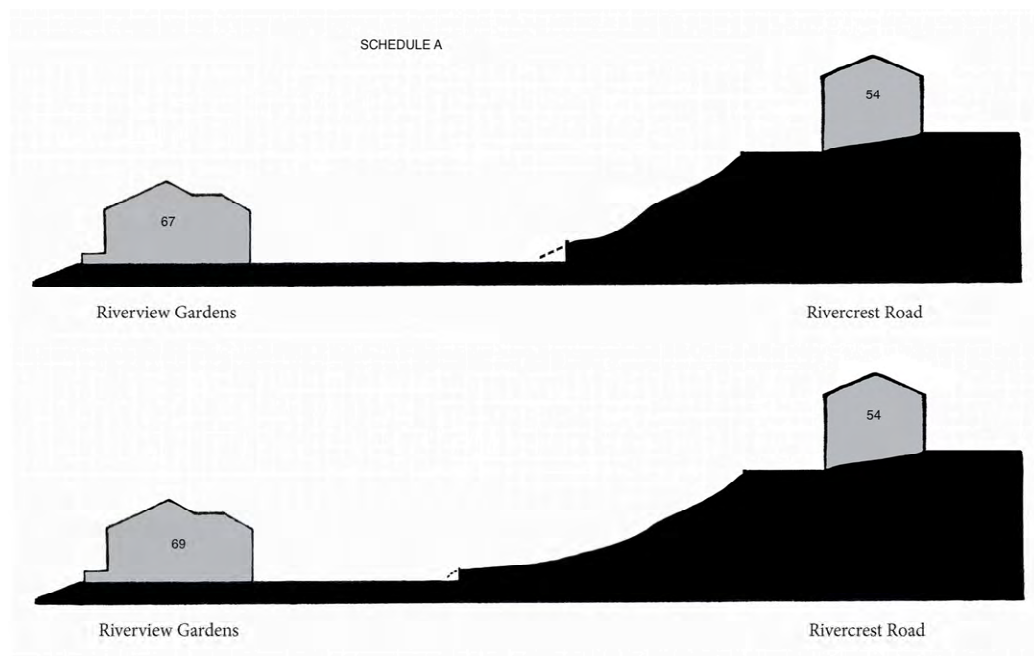
AND TO: Salima Rawji
69 Riverview Gardens
Toronto, ON M6S 4E6

APPLICATION

1. The Applicants make application for:
 - (a) a declaration that the wall between the properties known municipally as 54 Rivercrest Road (owned by the Applicant) and 67 and 69 Riverview Gardens (owned by the Respondents) (the “Wall”), is on land owned and/or occupied by the Respondents;
 - (b) a declaration that the Applicants have no right, title or interest in the land on which the Wall stands;
 - (c) an order that the register under the *Land Titles Act* be rectified, if required, to show that the Respondents own the land on which the Wall stands;
 - (d) a declaration that the Applicants are not responsible for the maintenance or repair of the Wall under the City of Toronto’s Property Standards Bylaw (the “Bylaw”);
 - (e) a declaration that in the event the Applicants are required to incur the cost of repairing the Wall under the Bylaw, the Respondents have been unjustly enriched by the cost of the repairs;
 - (f) an order that the Respondents reimburse the Applicants for the cost of the repairs, if incurred;
 - (g) costs of this application on a substantial indemnity basis; and
 - (h) such further and other relief as counsel may advise and this Honourable Court may accept.

2. The grounds for the application are:

- (a) The Applicants are the registered owner of property known municipally as 54 Rivercrest Road (the “Uphill Property”), where the Applicant Paul Dallas has lived from his birth in 1959 to the present, except for 1 year;
- (b) The Respondent Scott O’Hara is the registered owner of property known municipally as 67 Riverview Gardens, and the Respondents Michael Simone and Salima Rawji are the registered owners of property known municipally as 69 Riverview Gardens (collectively, 67 and 69 Riverview Gardens are referred to herein as the “Downhill Properties”);
- (c) The Uphill Property is a deep lot, which slopes significantly downhill towards its western edge, where it borders on the Downhill Properties. In its natural state, that slope continued along the eastern portion of the Downhill Properties, towards the Humber River, as represented below:



- (d) In or about 1931, the lots for both the Downhill Properties and the Uphill Property were laid out in a Plan of Subdivision of Parts of Registered Plans 2011, 2293, 2315, and 2705 in the Township of York, being Plan No. 2714 ("Plan of Subdivision");
- (e) On the Plan of Subdivision, Lots 34 (which became 67 Riverview Gardens) and 35 (which became 69 Riverview Gardens) front onto Riverview Gardens, while Lots 41 and 42 (which together later became 54 Rivercrest Road) front onto Rivercrest Road;
- (f) The western boundary of Lots 41 and 42 meets the eastern boundary of Lots 34 and 35;
- (g) In 1934, the Downhill Properties were conveyed to the predecessors in title of the Respondents. Sometime between 1934 and 1942, houses were constructed on the Downhill Properties;
- (h) In 1936, the western 30-foot portion of Lot 42 was transferred to the owner of Lot 34 immediately to the East, thereby increasing the size of 67 Riverview Gardens;
- (i) Sometime between 1936 and 1942, the predecessors in title to the Respondents caused the Wall to be built at the back of their gardens, running from North to South between Lots 35 and 41, then East for 30 feet along the southern boundary of Lot 41, then South along the boundary between the western 30 feet of Lot 42 (belonging to 67 Riverview Gardens) and the remainder of Lot 42 (belonging to 54 Rivercrest Road), around the boundary between the Downhill Properties and the Uphill Property, as set out in the sketch below:



- (j) The Uphill Property did not have a house built on it at the time, and the Wall provided and continues to provide no practical utility or benefit to the Uphill Property;
- (k) Rather, the Wall was constructed solely for the benefit of the owners of the Downhill Properties, to provide for a level garden all the way to the back of their properties, instead of the upward slope that previously affected the eastern portion of their properties in their natural state;
- (l) The Wall was not constructed on the exact boundary between the Downhill Properties and the Uphill Property. Rather, the builders of the Wall appear to have encroached slightly on the Uphill Property, thereby maximizing the size of their back gardens;
- (m) Prior to the construction of the Wall, when the land was in its natural state, the owners of the Downhill Property owed a duty at common law to the owner of the Uphill Property, to provide lateral support to the Uphill Property;
- (n) When the owners of the Downhill Properties caused the back portions of the Downhill Properties to be excavated to create a level back garden for

their own benefit, they owed a duty to replace the lateral support to the Uphill Property that had been provided from their land in its natural state, with a properly-built retaining wall, and to keep such wall in good repair so that it would continue to provide such lateral support to the Uphill Property;

- (o) The duty to provide lateral support with a properly-built retaining wall, and to maintain such wall in good repair, was not and is not negated by the fact that the owners of the Downhill Properties encroached upon the Uphill Property;
- (p) In or about 1944-45, the owner of the Uphill Property constructed a house on the Uphill Property. In 1946, the Uphill Property was transferred to the Applicant Paul Dallas's maternal grandmother, Chrissa Kabakos. Ms. Kabakos and her family were the first occupants of the house, which has remained in the Applicants' family continuously since then;
- (q) At the time Ms. Kabakos and her family moved in, there was a fence at the back of the Uphill Property, just to the east of the Wall, marking the western edge of the land used and occupied by the Applicants' family;
- (r) From at least 1942 until the Downhill Properties and Uphill Property were brought under the *Land Titles Act* on or about October 19, 2001, the owners of the Downhill Properties were in open, continuous, notorious, and exclusive possession of the western portion of the Uphill Property up to and including the land on which the Wall was built, such that the doctrine of adverse possession applies to this portion of the Uphill Property;
- (s) In or about early 2020, the Respondents contacted the City of Toronto, seeking an order that the Applicants carry out repairs on the Wall to comply with the Bylaw ("Order to Comply"), which order was subsequently made on or about July 24, 2020;

- (t) The Applicants appealed the Order to Comply to the Property Standards Committee on August 11, 2020;
- (u) As of the date of this application, the Property Standards Committee has adjourned the appeal to allow the Applicants to make further inquiry;
- (v) The Property Standards Committee has no jurisdiction to determine matters of adverse possession, unjust enrichment, or to grant equitable relief;
- (w) A declaration that the Applicants have no right, title, or interest in the land at the western edge of the Uphill Property, up to and including the land under the Wall, and/or an order that the register be rectified to reflect that the Downhill Properties own such land, will reflect the actual boundary between the Downhill Properties and the Uphill Property as it has existed for approximately 80 years, and thereby do justice between the parties;
- (x) In the alternative, to the extent that the Applicants are required to incur the cost of repairing the Wall under the Order to Comply, the Respondents are unjustly enriched and should be required to reimburse the Applicants for such cost;
- (y) Sections 4 and 15 of the *Real Property Limitations Act* and sections 44, 51, 57(13), 159, and 160 of the *Land Titles Act*; and
- (z) Such further grounds as counsel may advise and this Honourable Court may accept.

3. The following documentary evidence will be used at the hearing of this Application:

- (a) Affidavits to be filed; and

- (b) Such further and other evidence as counsel may advise and this Honourable Court may permit.

Date: March 16, 2021

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Andrew Lokan (LSO #31629Q)
Tel.: 416.646.4324
Fax: 416.646.4301
email: andrew.lokan@paliareroland.com

Lawyers for the Applicants

Court File No.

PAUL DALLAS
Applicant

-and-

SCOTT O'HARA and MICHAEL SIMONE and SALIMA RAWJI
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF APPLICATION

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto, ON M5V 3H1

Andrew Lokan (LSO #31629Q)
Tel.: 416.646.4324
Fax: 416.646.4301
email: andrew.lokan@paliareroland.com

Lawyers for the Applicant

Garbig, Cathy

From: Scott O'Hara <scottyo@behaviour.com>
Sent: Friday, December 3, 2021 3:39 PM
To: Macdonald, Robert; Venton, Scott R.
Subject: FW: Letter regarding Wall for 54 Rivercrest Road
Attachments: 21-B7675_SRPR_TOPO_REVISED 2021-07-29.pdf

Importance: High

From: Christopher Ellis <Christopher.Ellis@toronto.ca>
Date: Thursday, December 2, 2021 at 1:29 PM
To: 'Scott O'Hara' <thescottyo@gmail.com>, Michael Simone <michael.simone@gmail.com>, Michael Antoniou <Michael.Antoniou@toronto.ca>, Nicole Sweetapple <Nicole.Sweetapple@toronto.ca>
Cc: Scott O'Hara <scottyo@behaviour.com>
Subject: RE: Letter regarding Wall for 54 Rivercrest Road

Good Afternoon,

I apologize for the delayed response to this matter. As you know, the City issued a Property Standards Order to 54 Rivercrest Road requiring repair of the retaining wall. The City is now in receipt of a current stamped survey of the retaining wall which is attached. This survey was not available to the City when the Property Standards Order was issued to 54 Rivercrest Road. After consulting with our survey staff in the Building Division, we are satisfied that this current survey shows the retaining wall is located on 67 and 69 Riverview Gardens as well as 54 Rivercrest Road. Property Standards Orders will be issued to 67 and 69 Riverview Gardens, in addition to 54 Rivercrest Road, to repair the retaining wall. We hope that you will work with your neighbours to resolve this non-compliance within the time frame set out in the Property Standards Order.

Please note that Chapter 629, Property Standards, addresses non-compliance on properties where that non-compliance exists currently. Historic responsibility for this non-compliance, for example for the shifting of a retaining wall over time, is a civil matter among the property owners and the City takes no position on this.

Please be advised that you will be receiving a copy of this Order via registered mail next week.

Best Regards,



Chris Ellis
Manager, Toronto/East York District
Investigation Services
Municipal Licensing & Standards
416-392-7735
christopher.ellis@toronto.ca

**SURVEYOR'S REAL PROPERTY REPORT (PART 1),
SHOWING TOPOGRAPHIC FEATURES OF
LOTS 41 AND PART OF LOT 42**

YOUNG & YOUNG SURVEYING INC.
ONTARIO LAND SURVEYORS

© 2021
METRIC
DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METRES
AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE
AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE
AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

DESCRIPTION OF LAND
PART 2
PART OF LOTS 41 AND PART OF LOT 42
REGISTERED PLAN 2714
(CORNER 1 CITY OF ABERN)
COMPLIANCE WITH MUNICIPAL ZONING
NOT CERTIFIED BY THIS REPORT
REGISTERED EASEMENTS
SEE PARCEL REGISTER
ADDITIONAL REMARKS
NOTE THE LOCATION OF THE TREES, REMAINING WALLS/RODS AND TREES IN RELATION TO THE BOUNDARY LINES.

NOTE THE LOCATION OF THE FENCES, RETAINING WALLS, HEDGES AND TREES RELATION TO THE BOUNDARY LIMITS.

■ DENOTES FOUND BAR

- | | |
|---|---|
| U | DEMOTES PLANKED BAR |
| U | DEMOTES STAINLESS IRON BAR |
| SSB | DEMOTES STEEL RIVET |
| IB | DEMOTES IRON BAR |
| CC | DEMOTES CUT CROSS |
| CU | DEMOTES UNKNOWN |
| M | DEMOTES MEASURED |
| WT | DEMOTES WITNESS |
| P | DEMOTES REFERENCE PLAN 2714 |
| P1 | DEMOTES BROWNE & CONNELL, O.L.S. |
| P2 | DEMOTES PLAN 23, 1943. |
| P3 | AUGUST 13, 1943. |
| P4 | DEMOTES SURVEY BY UUNIN, MURPHY & ESTEN LTD. DATED JUNE 24, 2003. |
| P5 | DEMOTES SURVEY BY RICHARDSON SURVEYING LTD. O.L.S. |
| P6 | DEMOTES SURVEY BY MITSCH & AZIZ INC., O.L.S. |
| D | DATED OCTOBER 03, 2012. |
| D1 | DEMOTES INSTRUMENT NO. C18380054 |
| D2 | DEMOTES INSTRUMENT NO. 18534565 |
|  | DEMOTES HYDRO POLE |
|  | DEMOTES CATCHBASIN |
|  | DEMOTES OVERHEAD HYDRO LINES |
|  | DEMOTES DECIDUOUS TREE WITH DIAMETER |
| £ | DEMOTES CENTRE LINE |
| N | DEMOTES NORTH |
| W | DEMOTES WEST |
| S | DEMOTES SOUTH |
| BF | DEMOTES BOARD FENCE |
| CLF | DEMOTES CHAIN LINK FENCE |
| W | DEMOTES WOOD FENCE |
| SSW | DEMOTES STONE RETAINING WALL |
| W | DEMOTES WOOD RETAINING WALL |
| D | DEMOTES POINT ID |
| D | DEMOTES DIAMETER |

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.99977

BEARINGS ARE UTM GRID, BY REAL TIME NETWORK (TOPNET) OBSERVATIONS, UTM ZONE 17, NAD83 (CSRS)(2010).

FOR BEARING COMPARISONS, A ROTATION OF 0°52'30" COUNTERCLOCKWISE WAS APPLIED TO P2 TO CONVERT TO GRID BEARINGS

THIS PLAN WAS REVISED ON JULY 29, 2021 TO SHOW ADDITIONAL GROUND ELEVATIONS, CONTOUR LINES CROSS SECTIONS AND A FOUNTAIN MONUMENT (SSIB) ON THE EAST CORNER OF LOT 42.

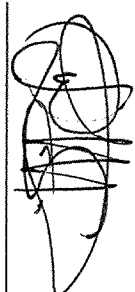
I CERTIFY THAT

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY'S ACT, THE SURVEYORS ACT, AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE 14TH DAY OF JULY, 2021.

DATE _____

JAMES A. AGYEMANG B.Eng
ONTARIO LAND SURVEYOR

JAMES A. AGYEMANG B.Eng
ONTARIO LAND SURVEYOR



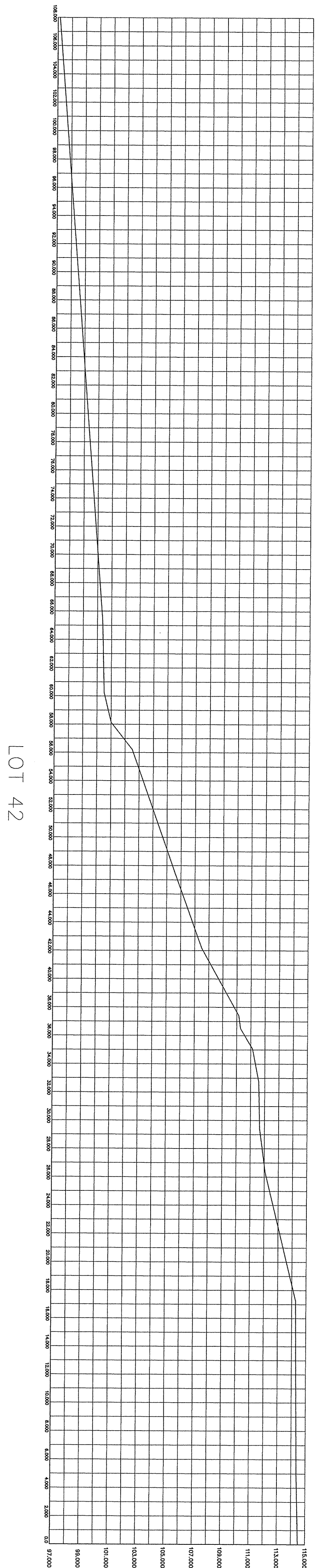
**YOUNG & YOUNG
SURVEYING INC.**
A Subsidiary of Mauro Group Inc.

2 HOLLAND DRIVE UNIT 5, BOLTON, ONTARIO L7E 1E1
PHONE 905.951.6000 - FAX 905.557.4811
www.youngsunveining.ca - info@youngsunveining.ca
OWNER: DB DRAWN BY: LV CHECKED BY: JA
I/YOUNG & CO. LTD.
PROJECTS/2021/P7675/MSCAD/B7675_SRRR_L16.DWG

PROJECT No. 21-B7675

PROJECT No. 21-B7

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LOT 42

BENCHMARK NOTE

MINISTRY OF TRANSPORTATION ONTARIO BENCHMARK #12619690059 (CGVD28: PRE-78 DATUM
ELEVATIONS HEREIN ARE GEODETIC IN ORIGIN AND WERE DERIVED FROM THE
HAVING A PUBLISHED ELEVATION 115.519 METRES

NOTE

UNDERGROUND UTILITIES HAVE NOT BEEN LOCATED. PRIOR TO ANY EXCAVATION OR DIGGING, THE UTILITY OWNERS SHALL BE ASKED FOR A LOCATE.

LOCATED ON THE SOUTH-WEST CORNER WEATHERELL AVENUE AND RIVERCREST ROAD. PLATE ON SOUTH-EAST CORNER OF BUILDING.

