

Presentation to Property Standards Committee – Toronto and East York Panel

June 13, 2022

Delivered By: Tara Piurko, Miller Thomson LLP,
Michael Simone & Salima Rawji (Registered Owners 69 Riverview Gardens)

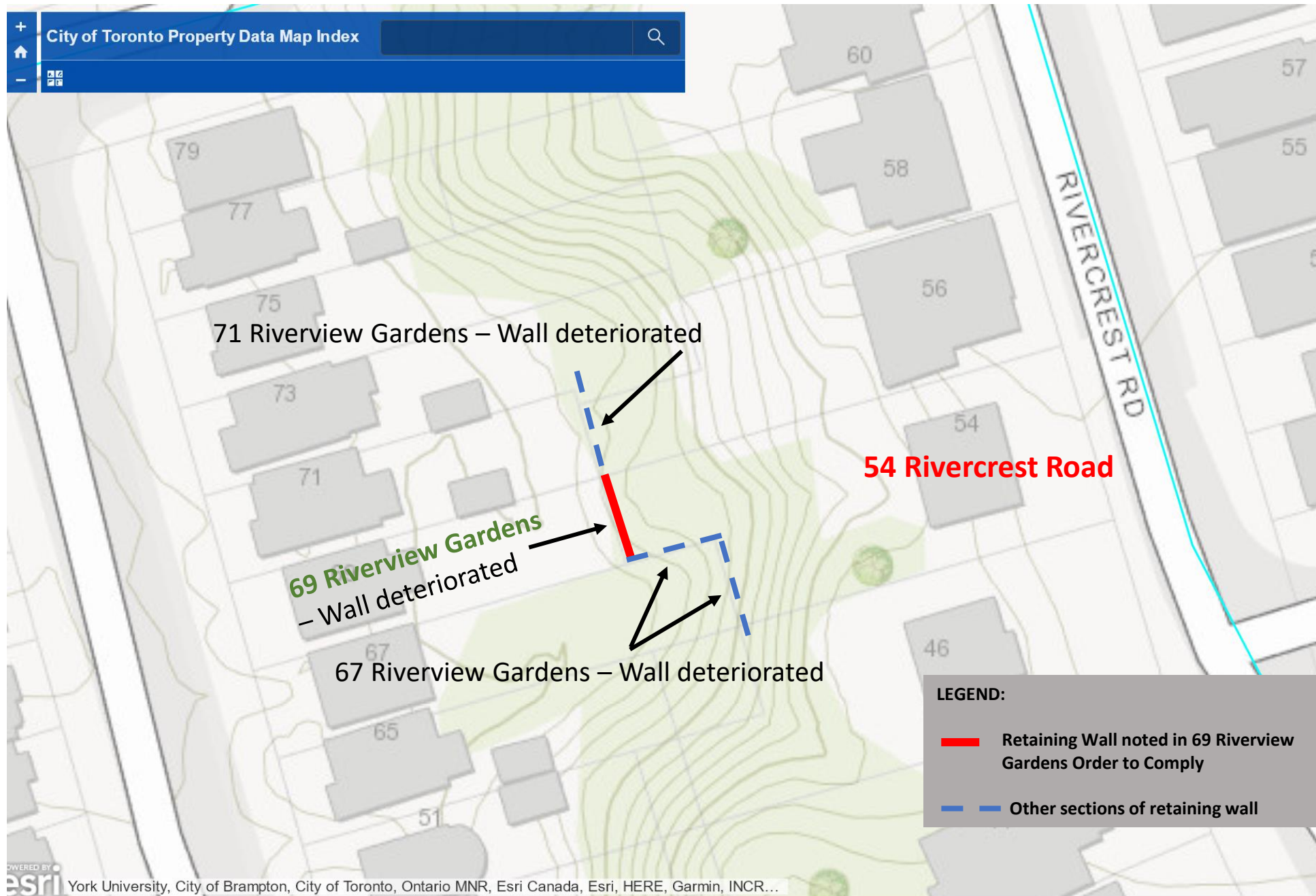


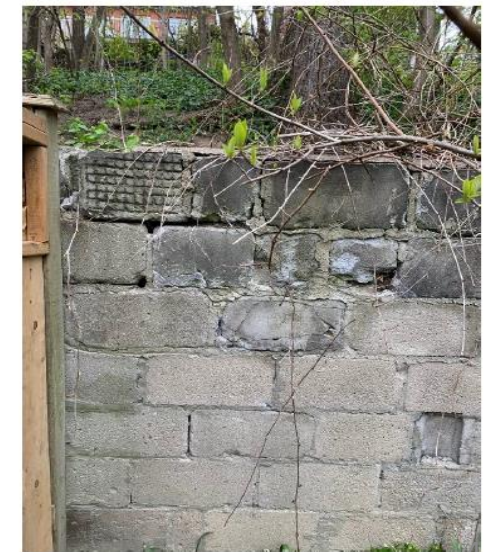
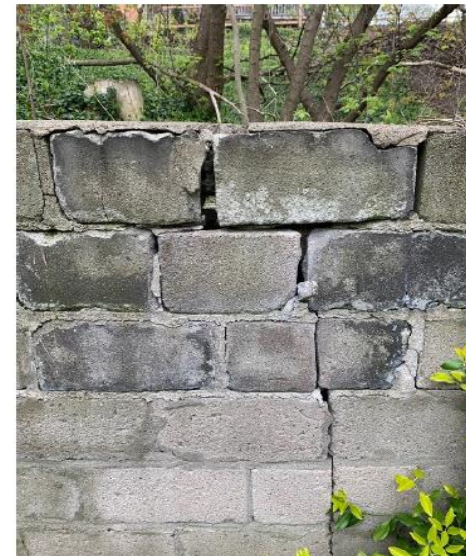
Photo Documentation



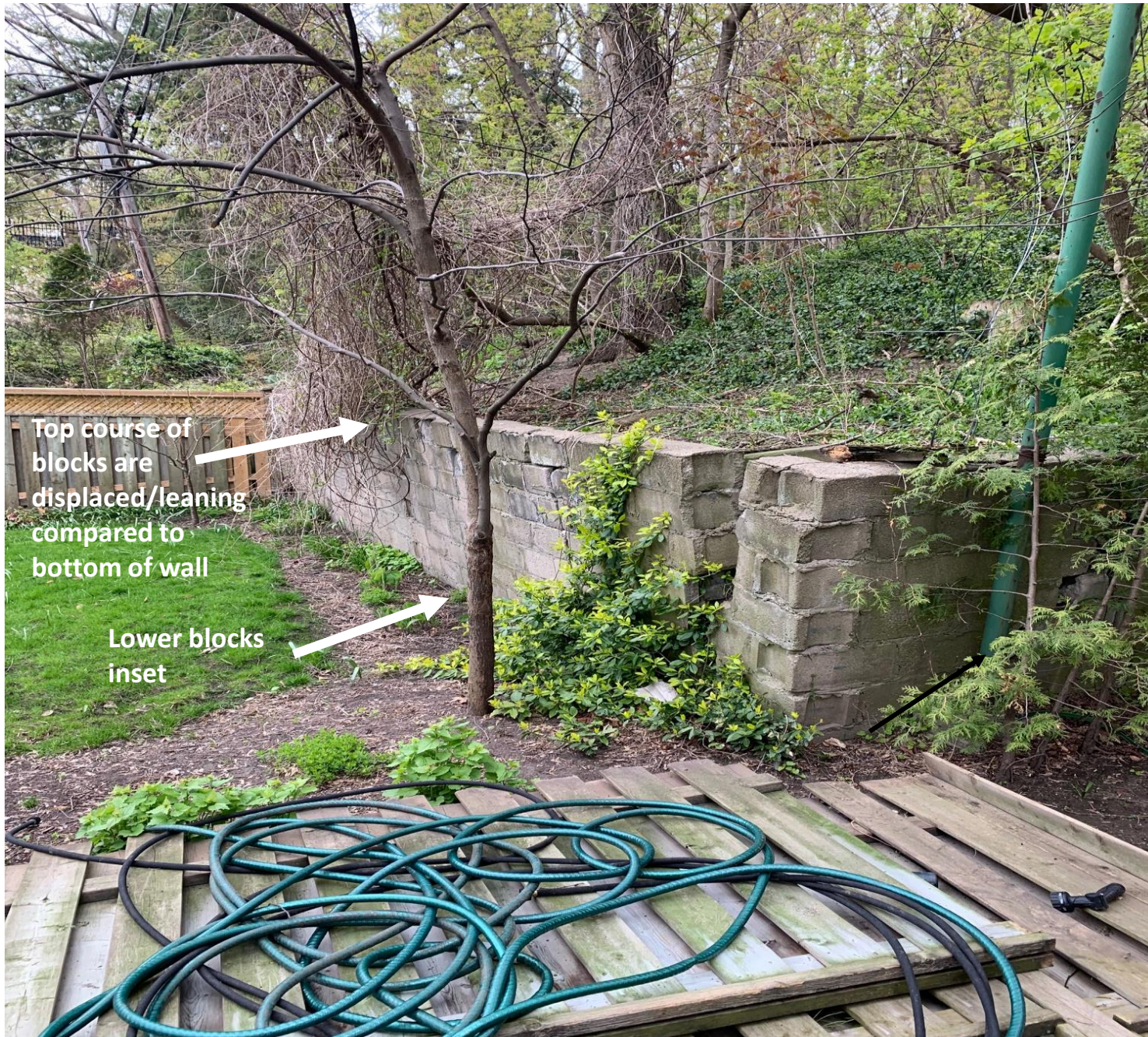
Failing Retaining Wall, photographed from Southeast corner of 69 Riverview Gardens Property (May 5, 2020)



Figure 1. View showing wall leaning.



Figures 2,3, 4. Views showing retaining wall deterioration.



Top course of
blocks are
displaced/leaning
compared to
bottom of wall

Lower blocks
inset

Lean of retaining wall is so extreme that it pushed over a portion of 69 Riverview Gardens fence in May 2019. (Fence shown is that of 69 Riverview Gardens)

Notice the top course of blocks have been displaced and bottom course of blocks is materially inset when compared to top course.

Photo Date: May 5, 2020

**Failing Retaining Wall, photographed by City from Southeast corner of 69 Riverview Gardens Property
(June 3, 2022)**

**Lean of wall onto 69
Riverview Gardens property
appears to have increased
since May 5, 2020 photos.
(54 Rivercrest Road Order to
Comply Served July 24 2020)**



Photo by Michael Antoniou, Municipal Standards Officer (June 3, 2022)

ORDER TO COMPLY TIMELINES:

**54 Rivercrest Rd &
69 Riverview Gardens**

PSC Hearing and Decision Timeline for 54 Rivercrest Rd

PROPERTY STANDARDS ORDER

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

Date issued: July 24, 2020

Folder #: 20 171908 PRS 00 IV
RN

Address to which Order Applies: 54 RIVERCREST RD
Legal Description: PLAN 2714 LOT 41 PT LOT 42
Roll Number: 1914081040034000000

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 July 23, 2020. 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.	Rear Yard: The retaining wall is not being maintained in a structurally sound and/or plumb condition.	Repair / replace retaining wall	August 13, 2020

Order issued by:

Name: Michael Antoniou **Telephone:** **Email:** Michael.Antoniou@toronto.ca

Address: 433 Eastern Ave, 2nd Floor

**Original Order to
Comply issued against
54 Rivercrest Rd.
(Issued July 24, 2020)**

PSC Hearing and Decision Timeline for 54 Rivercrest Rd

- **August 11, 2020:** 54 Rivercrest retained Legal Counsel (Baker & Company LLP) and formally appealed Order to Comply via a written letter to the PSC.
- **October 20, 2020:** 54 Rivercrest appeared before the PSC and requested a 2nd deferral. PSC granted the deferral to February 22, 2021.
- **February 22, 2021:** 54 Rivercrest Road reappeared before the PSC. The PSC provided 54 Rivercrest with one final opportunity to submit evidence to support their appeal of the Order to Comply. The PSC directs 54 Rivercrest Road to have the property line staked (surveyed) and to provide evidence of the property line (relative to the retaining wall).
- **March 22, 2021:** As of this date from the information on the public record, 54 Rivercrest Road did not respond to the PSC's request to have the property line and retaining wall professionally staked/surveyed and did not submit any formal staking/survey information to the PSC. The PSC rules to Confirm the Order to Comply against 54 Rivercrest Road.

PSC Deferral and Decision against 54 Rivercrest Rd



Tracking Status

- This item was considered by [Property Standards - Toronto and East York Panel](#) on February 22, 2021. The Property Standards - Toronto and East York Panel postponed consideration of this item. Consult the text of the decision for further information on the deferral.

Property Standards - Toronto and East York Panel consideration on February 22, 2021

SZ17.1	ACTION	Deferred		Ward: 4
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54 Rivercrest Road - Folder No. 20 171908 PRS 00 IV

Panel Decision

The Property Standards Committee, Toronto and East York Panel:

- Deferred consideration of the appeal of the Order to Comply, dated July 24, 2020, for 54 Rivercrest Road, Folder No. 20 171908 PRS 00 IV until its meeting on March 22, 2021 and directed the Appellant to have the property line staked, and to provide evidence of the property line, submitted at least one week in advance of the March 22, 2021 meeting.



Confirmed on
April 26, 2021

Property Standards - Toronto and East York Panel

Meeting No.	18	Contact	Brad Bartlett, Committee Secretary
Meeting Date	Monday, March 22, 2021	Phone	416-394-5606
Start Time	9:30 AM	E-mail	teycc@toronto.ca
Location	Video Conference		

This meeting of the Property Standards Committee, Toronto and East York Panel was conducted by electronic means and the proceedings of the Property Standards Committee, Toronto and East York Panel were conducted publicly.

These measures were necessary to comply with physical distancing requirements and as civic buildings were closed to the public.

SZ18.1	ACTION	Confirmed		Ward: 4
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54 Rivercrest Road - Folder No. 20 171908 PRS 00 IV

Panel Decision

The Property Standards Committee, Toronto and East York Panel:

- Confirmed the Order to Comply, dated July 24, 2020, for 54 Rivercrest Road, Folder No. 20 171908 PRS 00 IV.

Timeline for 69 Riverview Gardens – Order to Comply

- **December 2, 2021:** After more than **1 year and 4 months** from the date the Order to Comply was issued against 54 Rivercrest Rd and almost 9 months from when the PSC confirmed 54 Rivercrest's Order, the Manager Toronto/East York District sends the owners of 67 and 69 Riverview Gardens an email stating that new survey information has been provided to the City by 54 Rivercrest Road. We are told by the Manager that this survey information reflects that a very small portion of the retaining wall appears to be leaning over the common property line between all three parties. The City of Toronto concludes, based on this survey, that the wall is now shared between the owners of all 3 properties. Accordingly, we are told new Orders to Comply will be issued against 67 and 69 Riverview Gardens (54 Rivercrest Road Order to Comply still in force).

Timeline for 69 Riverview Gardens – Order to Comply

- 1) Registered mail, stamped by Canada Post Dec 15th, 2021 received by 69 Riverview Gardens on Dec 16th, 2021
- 2) Appeal deadline stated Dec 29th, 2021
- 3) 69 Riverview Gardens files appeal on Dec 22nd, 2021
- 4) PSC Appeal first Hearing date booked for Feb 28, 2022
- 5) 69 Riverview Garden's request for deferral granted by PSC to June 13, 2022

**Toronto**
Municipal Licensing and Standards

Central District
433 Eastern Avenue Bldg B, 2nd Floor
Toronto, ON M4M 1B7

Order issued to:

MICHAEL ALEXANDER SIMONE
69 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 245429 PRS 00 IV
RN

Address to which Order Applies: 69 RIVERVIEW GDNS
Legal Description: PLAN 2714 LOT 35
Roll Number: 1914081040024000000

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 shard retaining wall with 67 Riverview Gardens and 54 Rivercrest Road.	January 28, 2021

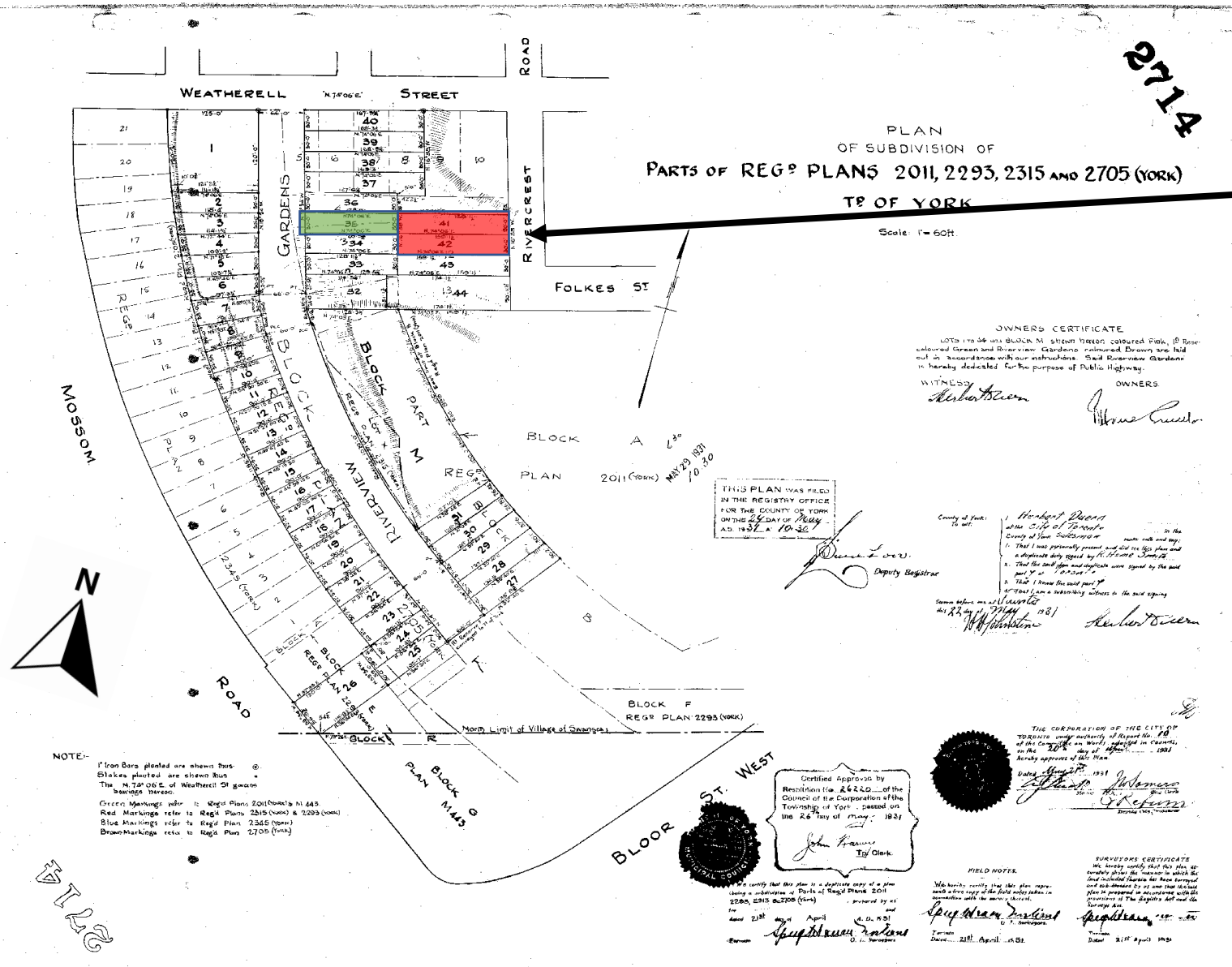
Order issued by:

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

Address: 433 Eastern Ave, 2nd Floor

SUPPORTING EVIDENCE:
**69 Riverview Gardens' request to
rescind Order to Comply**

Original Plan of Subdivision – 1931 (Plan 2714)



Green: 69 Riverview Gardens Lot

Red: 54 Rivercrest Road Lot

Note, both lots for 69 Riverview Gardens and 54 Rivercrest Road were established in same Plan of Subdivision in 1931.

69 Riverview Gardens Survey - 1934

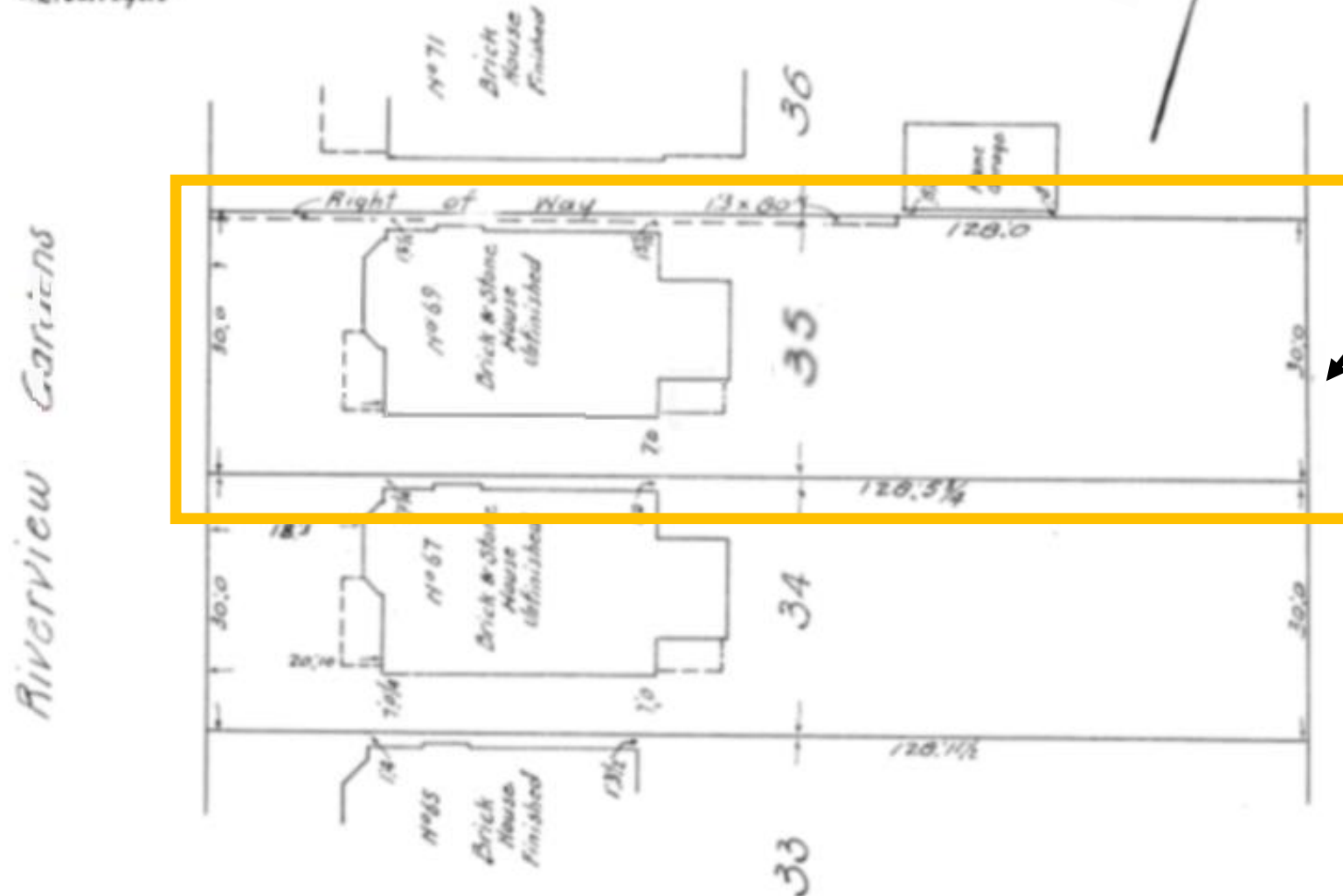
606 Indian Road
Toronto, Ont. 24th 1934
Abrey & Co
O.L. Surveyors

Sketch of Survey of
Houses being erected on
LOTS 34 & 35, PLAN 2714
Tp of York



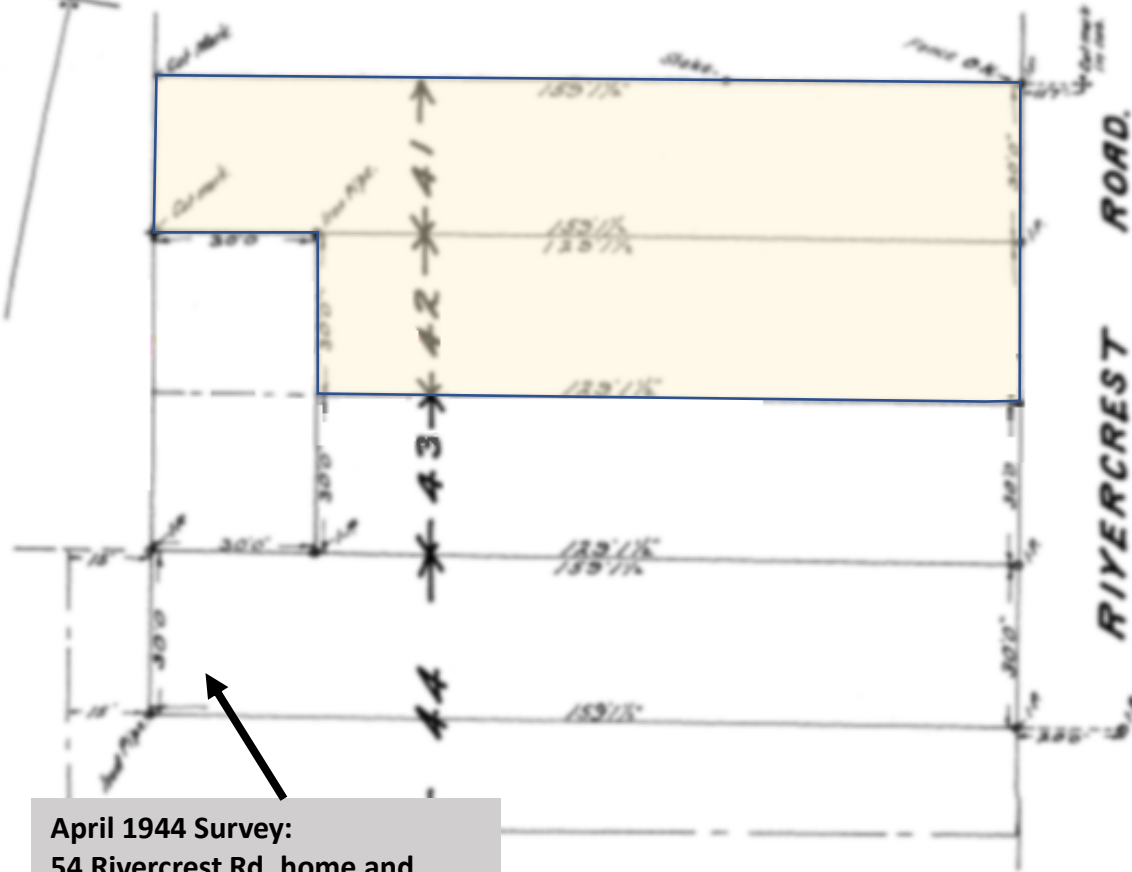
**69 Riverview Gardens
home was built in
1934. This survey is
also from 1934.**

No Retaining Wall on 69 Riverview Gardens Lands



54 Rivercrest Road Survey- 1944 and 1945

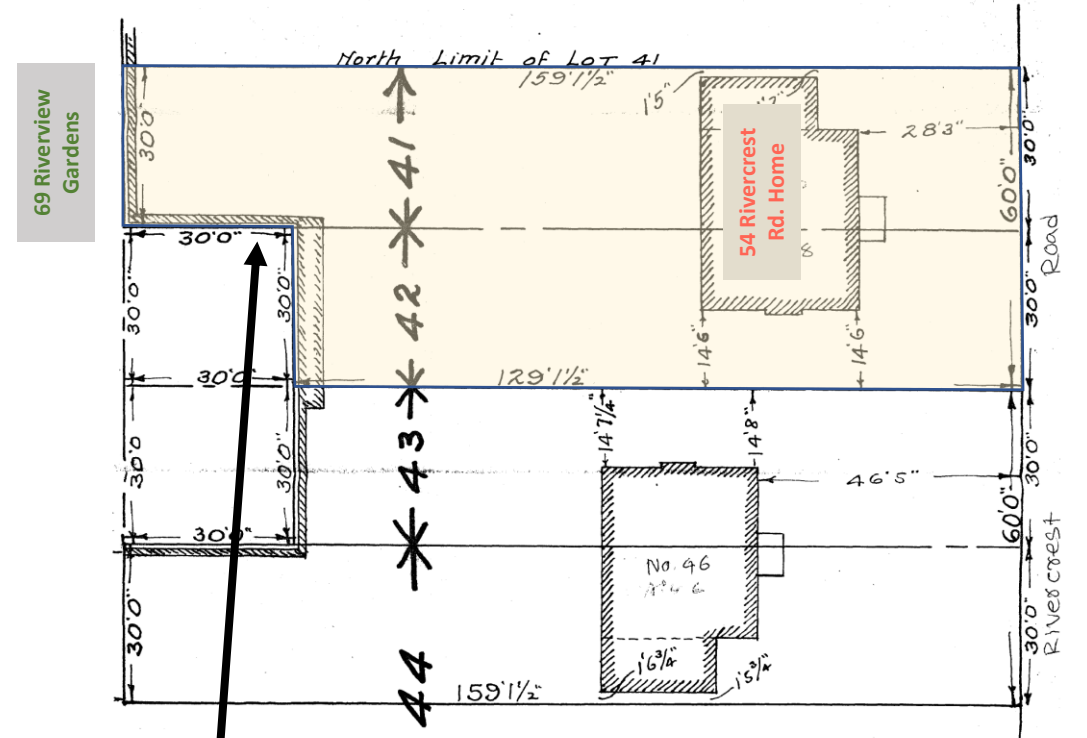
Sketch Showing
LOT 41 and PART OF LOTS 42
43 and 44-REG'D PLAN 2714
COUNTY OF YORK.
Scale: 20 Feet = 1 inch.



April 1944 Survey:
54 Rivercrest Rd. home and
retaining wall are not built; no
retaining wall shown on survey.

Browne & Cavell
Ontario Land Surveyors.
Toronto Oct. 26th 1936.
Resubd. April 11th 1944

Sketch Showing
LOT 41 and PART OF LOTS 42
43 and 44-REG'D PLAN 2714
COUNTY OF YORK.
TOWNSHIP OF YORK.
Scale: 1" = 20'

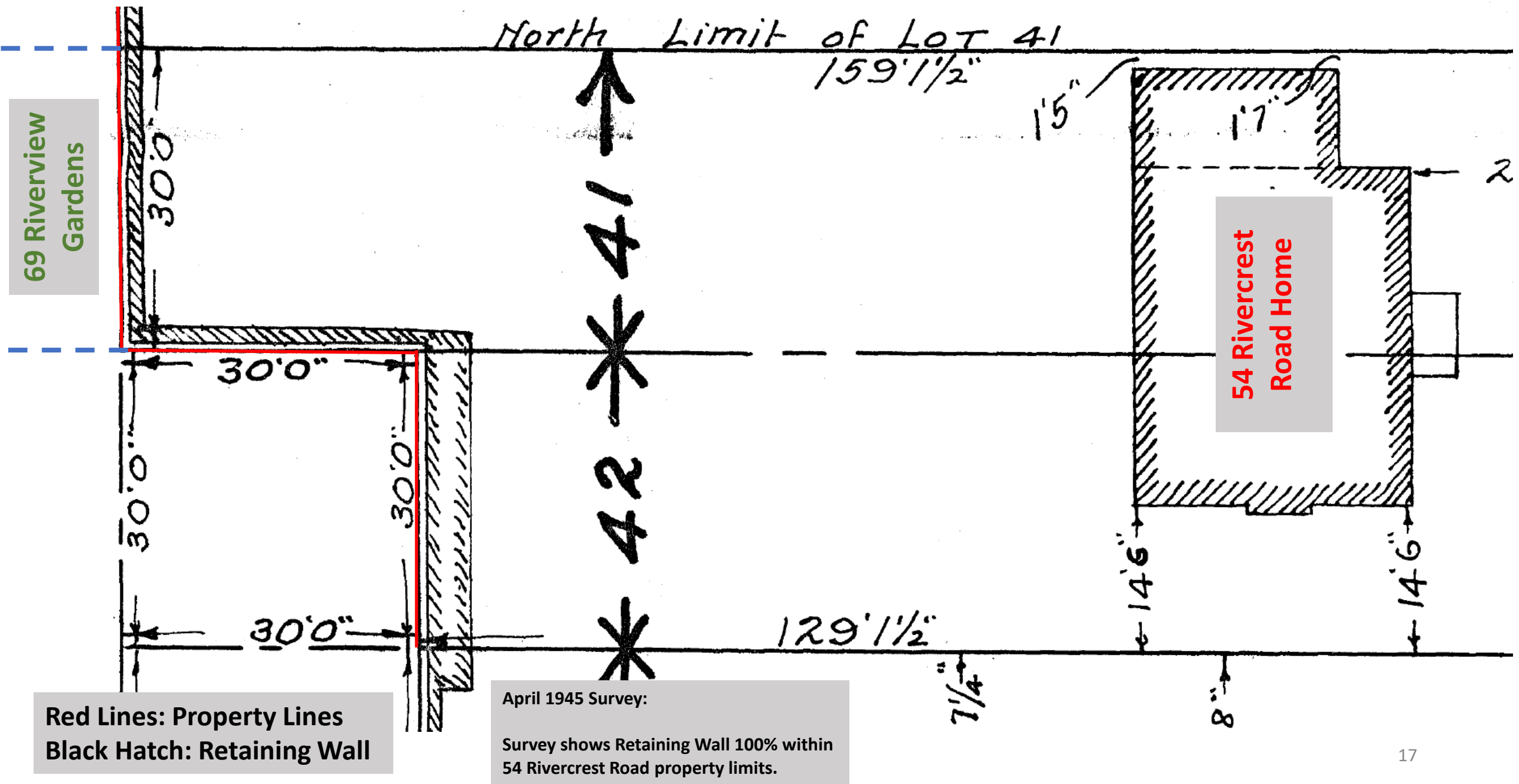


April 1945 Survey:
54 Rivercrest Road home is now built.
Home build date also confirmed by the 54
Rivercrest legal counsel (Baker Law).

Survey shows Retaining Wall 100% within
54 Rivercrest Road property limits.

Browne & Cavell
Ontario Land Surveyors.
Toronto April 23rd 1945.

Detail of 54 Rivercrest Road Survey-April 1945



69 Riverview Gardens Survey - 1955

W. S. GIBSON

S. GIBSON
10 PARK HOME AVE.
WILLOWDALE
RESIDENCE - BA. 1-3802

C. W. GIBSON
121 NORTHALE RD.
N.W. 1 YORK MILLS
RESIDENCE: HU. 9-0970

(RECORDS ON FILE)
ABREY & CO., O.L.S.
S. LANSON, O.L.S.
M. M. GIBSON, O.L.S.

W. S. GIBSON & SONS

ONTARIO LAND SURVEYORS

ESTABLISHED 1820

1851 YONGE STREET

TORONTO 12, ONT. July 13th, 1955.

REFERENCE NO.

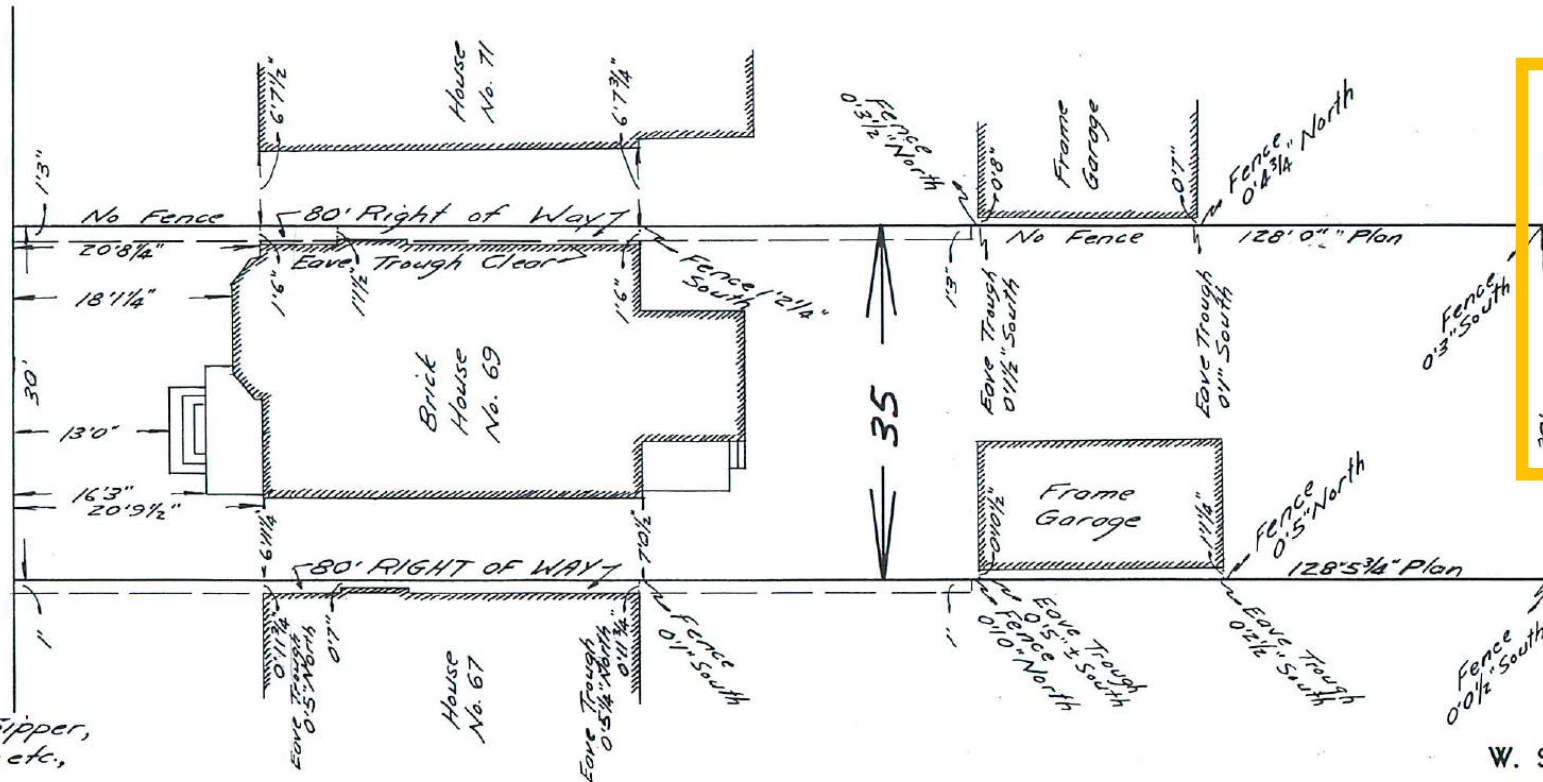
1
2714.Y

*Sketch of survey of Lot 35, Plan 2714,
Township of York, County of York.*

Survey Clearly States: West Face of Concrete Retaining Wall located 11.5 inches East of Property Line.

100% within 54 Rivercrest Rd property limits.

Riverview Gardens



Survey Clearly States: West Face of Concrete Retaining Wall located 5 inches East of Property Line.

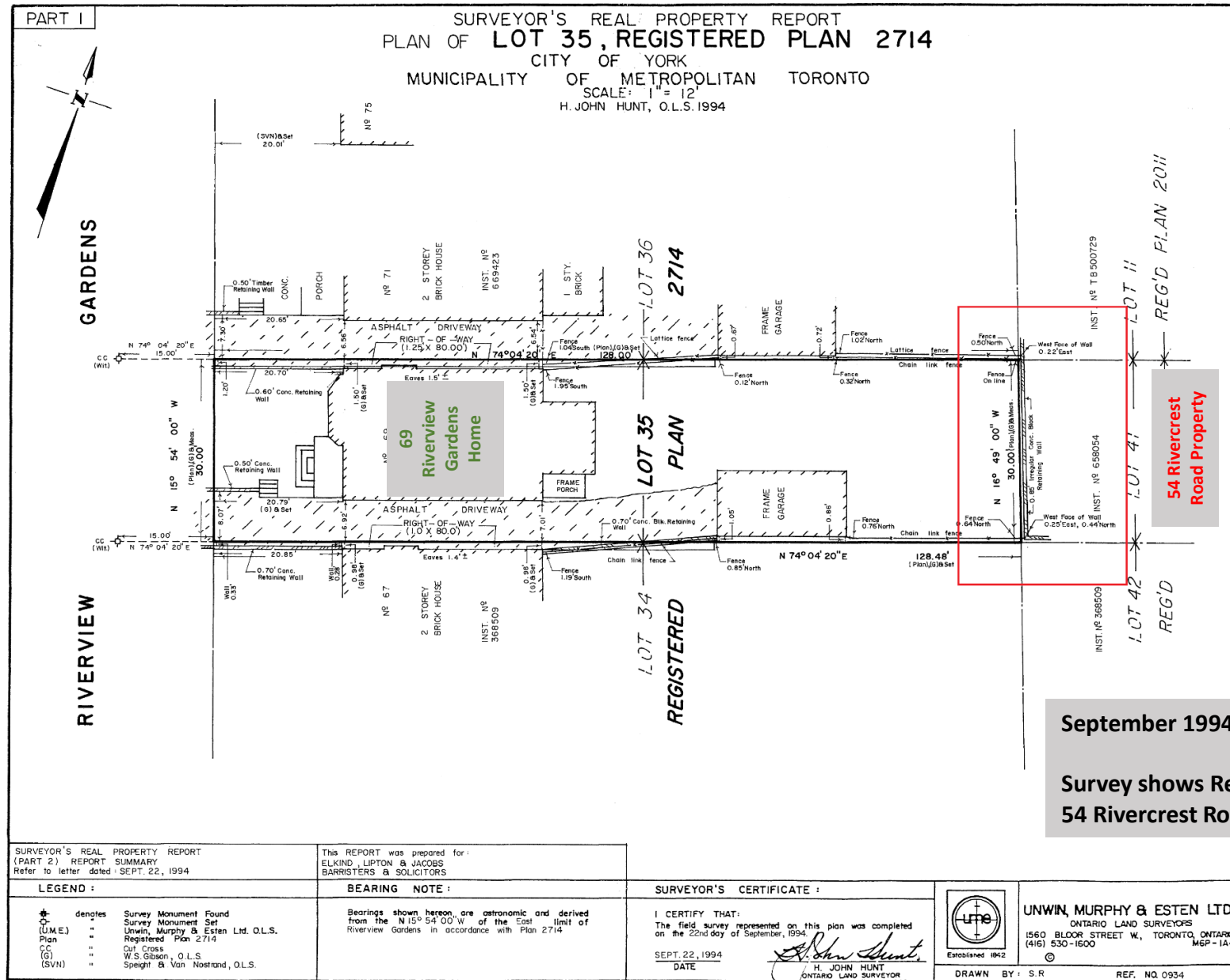
100% within 54 Rivercrest Rd property limits.

For:-
Mr. William Henry Sipper,
Barrister etc.,
600 Bay Street,
Toronto, Ontario.

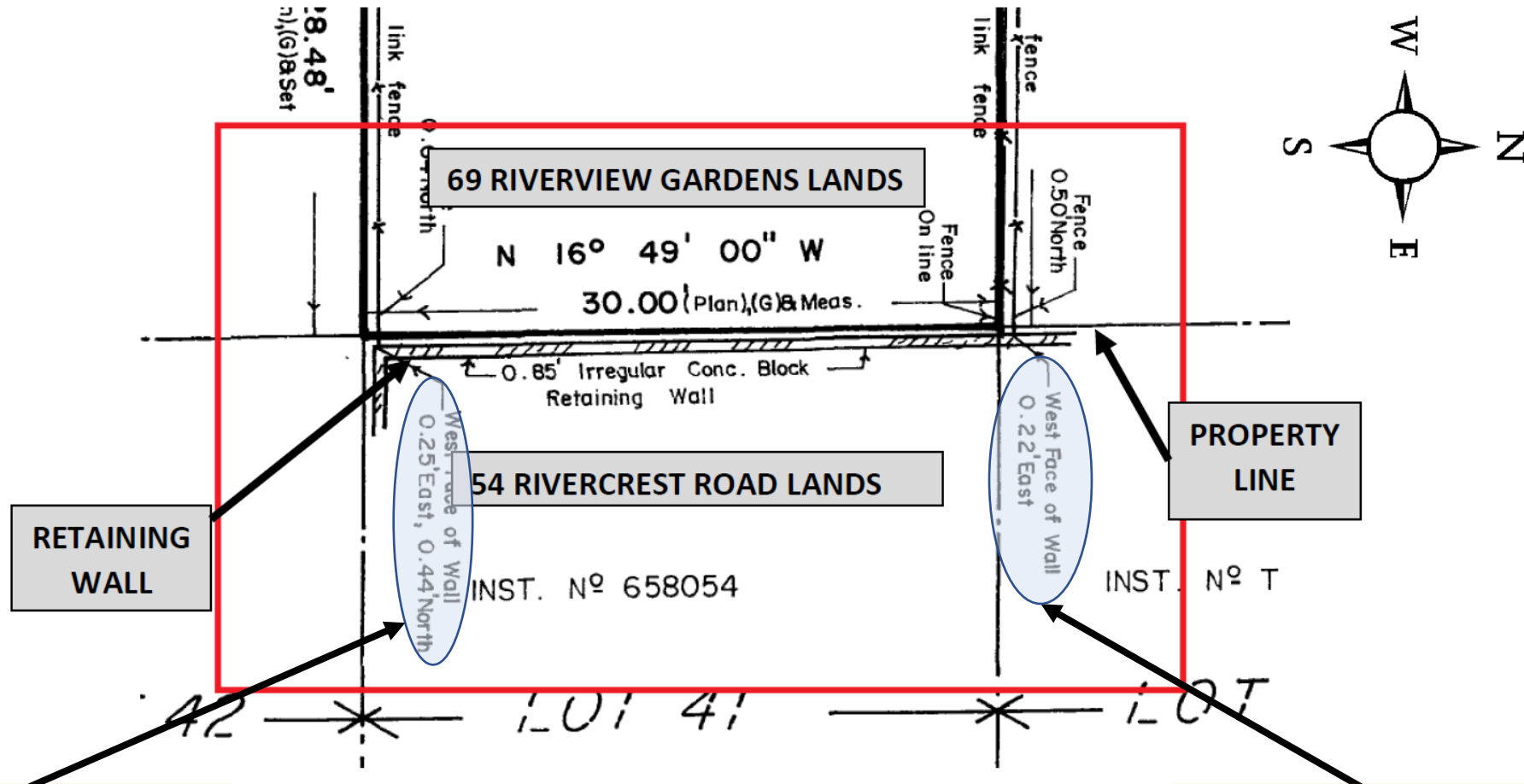
W. S. GIBSON & SONS

ONTARIO LAND SURVEYORS

69 Riverview Gardens Survey – September 1994



Detail of 69 Riverview Gardens Survey – September 1994



****Note Comment**** West Face of Wall is 0.25 feet (3.0 inches) East of Property Line. Compared to measurement (5 inches) on 1955 W.S. Gibson & Sons Survey, the wall has moved West by 2 inches over a period of 39 years.

SURVEY CONFIRMS RETAINING WALL IS FULLY LOCATED ON 54 RIVERCREST ROAD LANDS

****Note Comment**** West Face of Wall is 0.22 feet (2.64 inches) East of Property Line. Compared to measurement (11.5 inches) noted on 1955 W.S. Gibson & Sons Survey, the wall has moved West by 8.86 inches over a period of 39 years.

2022 Letter from Surveying Firm that Completed 1955 Survey

Surveyor contact

Adam Werrell <werrell@svng.on.ca>
To: Michael Simone <michael.simone@gmail.com>

Fri, Feb 18, 2022 at 11:20 AM

Michael,
Good chatting with you, and thank you for sharing the historic surveys of your property and the neighbours to the East.
From looking at the 3 surveys I see the following in relation to the structure along the rear of your property, No. 69 Riverview Gardens.

Browne & Cavell OLS, (B&C) Survey showing Lot 41, and Part of Lots 42, 43 & 44, Registered Plan 2714, dated April 23, 1945:

Lot 41 is directly East of (Behind) your Property (being Lot 35,) both properties are on the same Registered plan (RP) 2714.
On the B&C survey along the West limit of Lot 41 is illustrated a structure that although it has no locating dimensions would appear to be **wholly contained on Lot 41.**
The Structure is not identified as a Retaining Wall, and the construction material of the structure is not noted on the face of the survey. This information might be included on the Field Notes from the preparation of the survey, but I do not have access to this information at this time.

W.S. Gibson & Sons Ltd OLS, (WSG) survey showing Lot 35, Registered Plan 2714, completed July 13, 1955:

The WSG survey illustrates ties to a "Concrete Wall" running along the rear (East) limit of Lot 35. (The wall itself is not illustrated on the survey, only the ties measured to the Concrete Wall are noted.)
The ties noted on the plan range from 11 1/2" East at the North end of the Wall, to 5" +/- East approximately in the middle of the Concrete Wall. There is no dimension at the Southeast corner of Lot 35 to any structure at that corner.
The Notation "EAST" on this survey indicates that the **Concrete Wall where located is contained on Lot 41, you rear neighbours property.**

Unwin, Murphy & Esten Ltd OLS, (UME) survey showing Lot 35, RP 2714, completed on September 22, 1994

The UME survey illustrates a 0.85' (10 3/8") Irregular Concrete Block Retaining Wall (CBRW) along the Rear limit of your property.
According to the measurements on the UME survey the WEST face of the CBRW is:
0.22' (2 5/8") East of the rear limit of Lot 35 at the Northeast corner of Lot 35, and
0.25' (3") East of the rear limit of Lot 35 at the Southeast corner of Lot 35.
As mentioned above ties that are East of the Rear limit of Lot 35 would mean the CBRW **is wholly located on Lot 41 (i.e. on your rear neighbours property.)**

PLEASE NOTE:

These are observations made from reading the 3 surveys, and are not the result of a field investigation by myself or Speight Van Nostrand and Gibson Ltd.

Sincerely,
Adam Werrell

Adam J. Werrell
Ontario Land Surveyor
Speight, Van Nostrand & Gibson Ltd.
416.749.7864
werrell@svng.on.ca

**Note: Lot 41 is the 54
Rivercrest Road Property
(refer to 1944 and 1945 Surveys
of 54 Rivercrest Road on Slide 15
for Lot number)**

Placeholder:

Survey Information to be
added prior to June 13,
2022 PSC Hearing

Toronto Municipal Code, Chapter 629, Property Standards

TORONTO MUNICIPAL CODE CHAPTER 629, PROPERTY STANDARDS

ARTICLE III

General Duties and Obligations

§ 629-4. Compliance required.

- A. 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.
- B. No basement or any portion of a basement shall be used or permitted to be used as a habitable room or dwelling unit unless each habitable room complies with all requirements for egress, light, ventilation and ceiling height set out in this chapter.

§ 629-5. Owner's duties.

The owner of property shall:

- A. Repair, maintain and keep clean the property in accordance with the standards and take immediate action to eliminate any unsafe condition; and
- B. Ensure that every supplied facility in or on the property is: [Amended 2009-05-27 by By-law No. 570-2009⁷]
 - (1) Constructed, installed and maintained so that it will function safely and effectively;
 - (2) Kept in a satisfactory working condition; and
 - (3) Available for use by the occupants and other users of the property in accordance with the standards.

Toronto Municipal Code, Chapter 629, Property Standards

TORONTO MUNICIPAL CODE CHAPTER 629, PROPERTY STANDARDS

§ 629-14. Retaining walls.

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.

1. The Property Standards Bylaw states that all retaining walls “shall be maintained” – by definition “maintained” is the PAST tense of maintain which means: *to keep in an existing state (as of repair, efficiency, or validity) : preserve from failure or decline* (source: <https://www.merriam-webster.com/dictionary/maintain>). Had the retaining wall been maintained it would not be currently failing or infringing on the 69 Riverview Gardens property.

Building Code Act 1992 – s15.3 (7) Effect of decisions

(7) An order that is deemed to be confirmed under subsection (2) or that is confirmed or modified by the committee under subsection (3) or a judge under subsection (6), as the case may be, **shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the order.** 1997, c. 24, s. 224 (8).

1. Property Standards Committee (“PSC”) granted 54 Rivercrest Road an opportunity to complete a new survey of the retaining wall by **March 22, 2021** expressly to confirm ownership of the wall in question. 54 Rivercrest Road **did not** take this opportunity. Accordingly, the PSC confirmed the Order to Comply for 54 Rivercrest Rd to repair the retaining wall.
2. Over that 11 month period, **no action** to secure/stabilize the wall from further deterioration has been taken. A multitude of things could have happened during that period – the wall could have been altered, manipulated or further deteriorated.
3. At the time the PSC made it’s original determination confirming the Order to Comply for the retaining wall by 54 Rivercrest is when final and binding responsibility for the retaining wall was established. To name additional parties as responsible for repairing or rebuilding the retaining wall after this point is not contemplated in the Ontario Building Code or the Property Standards Bylaw.

Procedural Error (Building Code Act 1992 – S15.2)

Inspection of property without warrant

15.2 (1) Where a by-law under section 15.1 is in effect, an officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (a) whether the property conforms with the standards prescribed in the by-law; or
- (b) whether an order made under subsection (2) has been complied with. 1997, c. 24, s. 224 (8).

Contents of order

(2) An officer who finds that a property does not conform with any of the standards prescribed in a by-law passed under section 15.1 may make an order,

- (a) stating the municipal address or the legal description of the property;
- (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;
- (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and
- (d) indicating the final date for giving notice of appeal from the order. 1997, c. 24, s. 224 (8).

Procedural Error (Order to Comply, 69 Riverview Gardens)



Toronto
Municipal Licensing and Standards

Central District
433 Eastern Avenue Bldg B, 2nd Floor
Toronto, ON M4M 1B7

Order issued to:

MICHAEL ALEXANDER SIMONE
69 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 245429 PRS 00 IV
RN

Address to which Order Applies: 69 RIVERVIEW GDNS
Legal Description: PLAN 2714 LOT 35
Roll Number: 1914081040024000000

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 shard retaining wall with 67 Riverview Gardens and 54 Rivercrest Road.	January 28, 2021

Order issued by:

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

Address: 433 Eastern Ave, 2nd Floor

1. Compliance Date of January 28, 2021 stated on Order to Comply is earlier than Date of Issuance (Dec 9, 2021) – error on legal document;
2. The 69 Riverview Gardens Order to Comply states that property was inspected on April 7, 2021- 16 days after the order to comply and corresponding repair obligation had been confirmed for 54 Rivercrest Rd and two days before the City of Toronto hand delivered a letter to 69 Riverview Gardens alerting them of the immediate danger of the retaining wall located on the property at 54 Rivercrest Rd.
3. S 15.2 of Ontario Building Code Act expressly requires that a Bylaw Officer identify themselves to the Owners prior to inspecting a property. Mr. Michael Antoniou never identified himself to the Owners, nor did he directly access our property. Any inspection that occurred was not carried out in accordance with the Property Standards Bylaw and Building Code Act requirements.

Procedural Error: Building Code Act, 1992 S 15.7



On April 9, 2021, Municipal Licensing and Standards hand delivered a letter to the Owners of 69 Riverview Gardens advising of the “wall located on the property within the municipal address of 54 Rivercrest Rdposes an immediate danger to the health or safety of persons”.

The City of Toronto stated they would be taking “further steps...and [would] contact the [Owners] early next week” in relation to eliminating this immediate danger.

To date, the City of Toronto have not contacted the Owners of 69 Riverview Gardens and have not have any steps been taken to reduce or terminate this danger. Instead, The City of Toronto has allowed this safety issue to persist since July 23, 2020 when the City of Toronto first inspected the 54 Rivercrest wall. This is contrary to the obligation in the Building Code Act, 1992 S 15.7(1) were “remedial repairs [are required] to be carried out immediately to terminate the danger.

Building Code Act, 1992

S.O. 1992, CHAPTER 23

Emergency order re dangerous non-conformity with standards

15.7 (1) If upon inspection of a property the officer is satisfied that there is non-conformity with the standards in a by-law passed under section 15.1 to such extent as to pose an immediate danger to the health or safety of any person, the officer may make an order containing particulars of the non-conformity and requiring remedial repairs or other work to be carried out immediately to terminate the danger. 1997, c. 24, s. 224 (8).

Request of Property Standards Committee

We respectfully request that the Property Standards **Committee rescind the Order to Comply issued against 69 Riverview Gardens** given the substantial and material evidence that exists confirming we share no ownership interest in or responsibility for the retaining wall in question.

Furthermore, we request that the Property Standards Committee **enforce the original Order to Comply issued against 54 Rivercrest Road** in a timely manner to ensure the safety of all persons and residents.