

To the Property Standards Committee and Mr. Bradley Bartlett:

Further to our notice delivered to the Property Standards Committee on May 30, 2022, please find attached an updated set of documentary evidence which we intend to use during the Property Standards hearing on June 13, 2022, for the appeal of the Order to Comply for 69 Riverview Gardens (Folder Number: 21 245429 PRS 00 IV).

I can confirm that the only update to the original set of documentary evidence we submitted on June 6, 2022 is the addition of the survey related evidence which we received from our surveyor today. This survey information is found on slides 22-26. I have also attached a stand alone copy of our June 8, 2022 survey in the event the PSC or the City of Toronto needs to see more detail.

Thank you for your help and please confirm receipt of this email and two attachments.

-Michael Simone

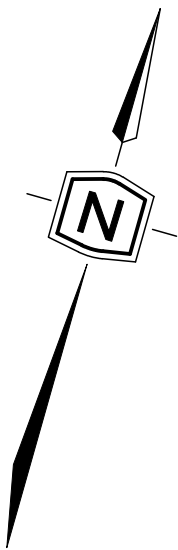
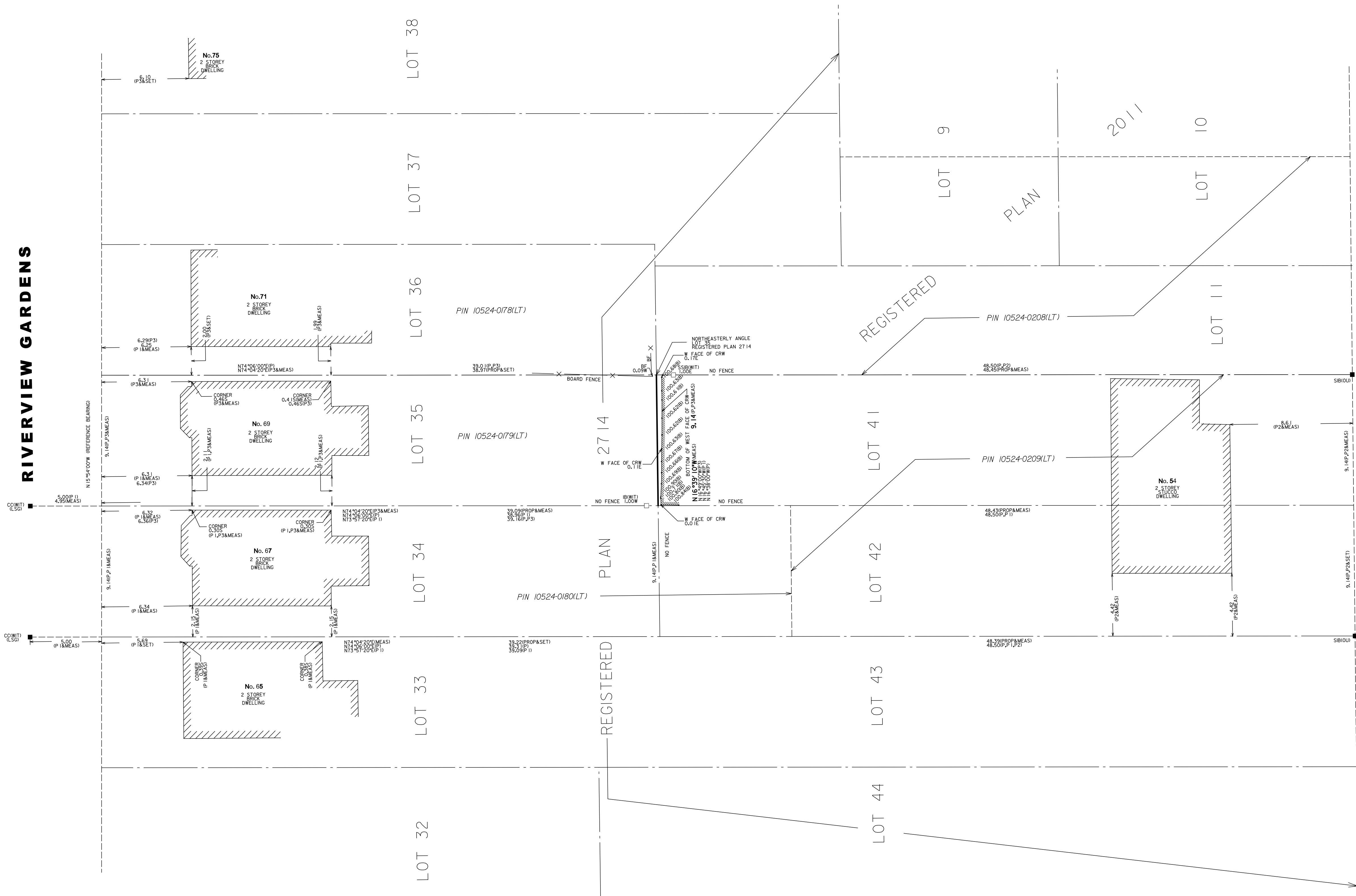
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Michael Simone

c: 416-995-2842

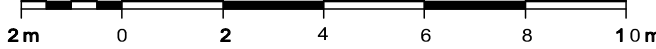
e: michael.simone@gmail.com

RIVERVIEW GARDENS



PLAN OF SURVEY OF
PAR OF LOT 35
REGISTERED PLAN 2714
CITY OF TORONTO
(FORMERLY CITY OF YORK)

SCALE 1 : 150



© COPYRIGHT 2022

ROUSE SURVEYORS INC.

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

NOTES

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE EASTERLY LIMIT OF
RIVERVIEW GARDENS HAVING A BEARING OF N15°54'00\"W IN ACCORDANCE WITH
REGISTERED PLAN 2714.

- DENOTES SURVEY MONUMENT FOUND
- DENOTES SURVEY MONUMENT SET
- SIB DENOTES STANDARD IRON BAR
- SSIB DENOTES SHORT STANDARD IRON BAR
- IB DENOTES IRON BAR
- CC DENOTES CUT CROSS
- WIT DENOTES WITNESS
- OU DENOTES ORIGIN UNKNOWN
- LSG DENOTES LAND SURVEY GROUP, O.L.S.
- MEAS DENOTES MEASURED
- CALC DENOTES CALCULATED
- PROP DENOTES PROPORTION
- P DENOTES REGISTERED PLAN 2714
- P1 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY LAND SURVEY GROUP,
O.L.S., DATED JUNE 7, 2013
- P2 DENOTES SKETCH OF SURVEY BY BROWN & CAVELL, O.L.S.,
DATED APRIL 23, 1945
- P3 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY UNWIN, MURPHY & ESTEN
LTD, O.L.S., DATED SEPTEMBER 22, 1994
- CRW DENOTES CONCRETE RETAINING WALL
- B DENOTES ELEVATION AT BOTTOM OF CONCRETE RETAINING WALL
- BF DENOTES BOARD FENCE
- N DENOTES NORTH
- S DENOTES SOUTH
- E DENOTES EAST
- W DENOTES WEST

BENCH MARK NOTE

ELEVATIONS SHOWN ON THIS PLAN ARE RELATED TO CANADIAN GEODETIC VERTICAL DATUM
(PRE 1978 ADJUSTMENT) AND ARE DERIVED FROM THE CITY OF TORONTO BENCH MARK
No 12219750001 HAVING A PUBLISHED ELEVATION OF 98.391 METRES.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT,
THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON MAY 24, 2022.

DATE: JUNE 8, 2022

LAUREN E. DAWE
ONTARIO LAND SURVEYOR



56 FORT YORK BOULEVARD, TORONTO ONTARIO M5V 4A6
T: 416-598-3933 F: 647-436-7940 W: ROUSESURVEYORS.COM

DRAWN BY:

AS

CHECKED BY:

LED

REFERENCE NO.

22-335-00

FILE: S:\JOBS\2233500\0\GN\2233500.DGN

DATED: JUNE 8, 2022

PREPARED FOR: MICHAEL SIMONE

ASSOCIATION OF ONTARIO
LAND SURVEYORS
PLAN SUBMISSION FORM
V-24863



THIS PLAN IS NOT VALID
UNLESS IT IS AN EMBOSSED
ORIGINAL COPY
ISSUED BY THE SURVEYOR
In accordance with
Regulation 1026, Section 29(3).

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)

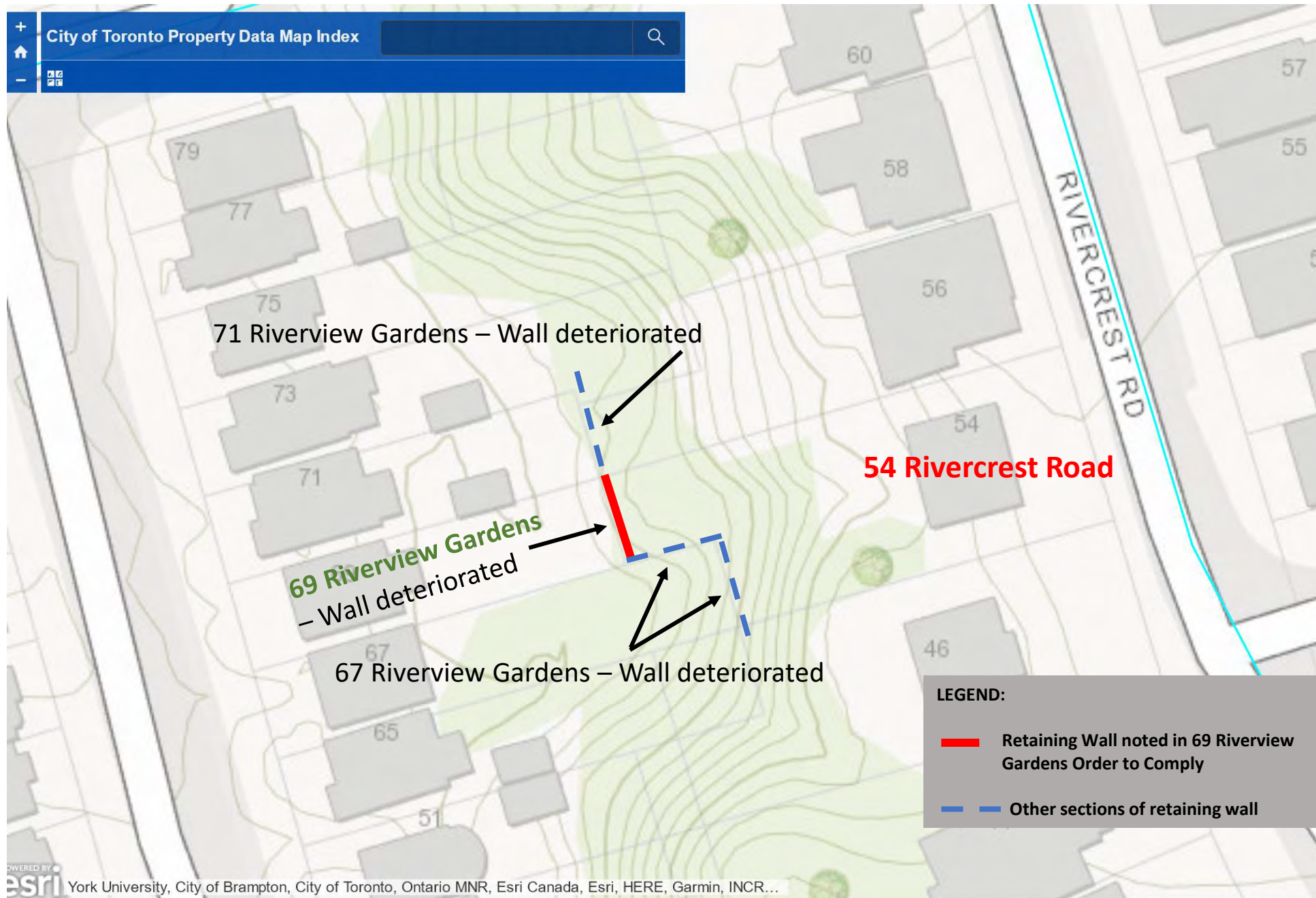


Photo Documentation



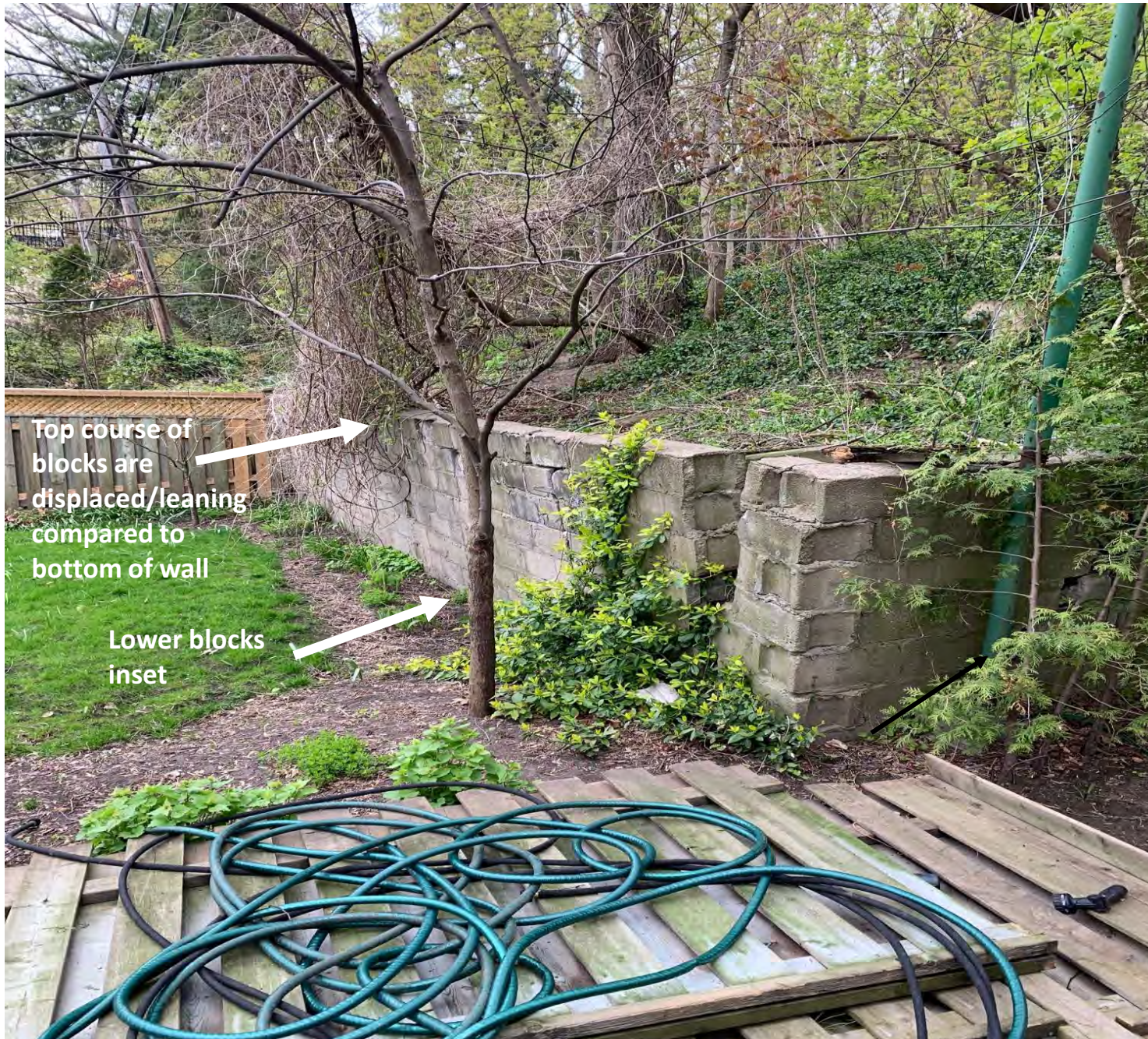
Failing Retaining Wall, photographed form Southeast corner of 69 Riverview Gardens Property (May 5, 2020)



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:

1. 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:

1. 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.

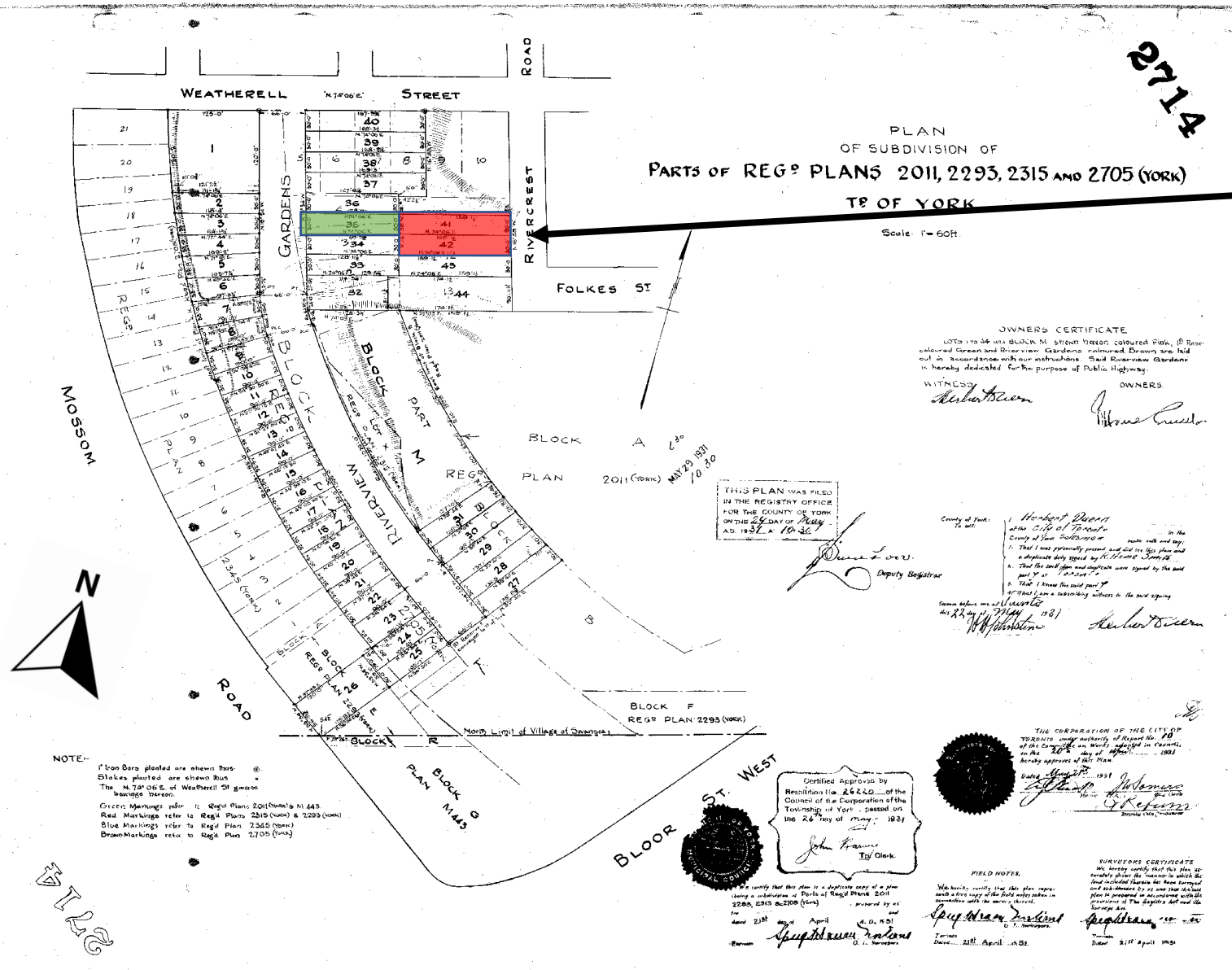
Item #	Bylaw Section	Location and Description	Required Action	Compliance Date
1	14.	East Side of Property: The retaining wall is not being maintained in good repair.	Obtain permits from Toronto Regional Conservation Authority and Toronto Buildings for the permanent repair, stabilization or reconstruction 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)

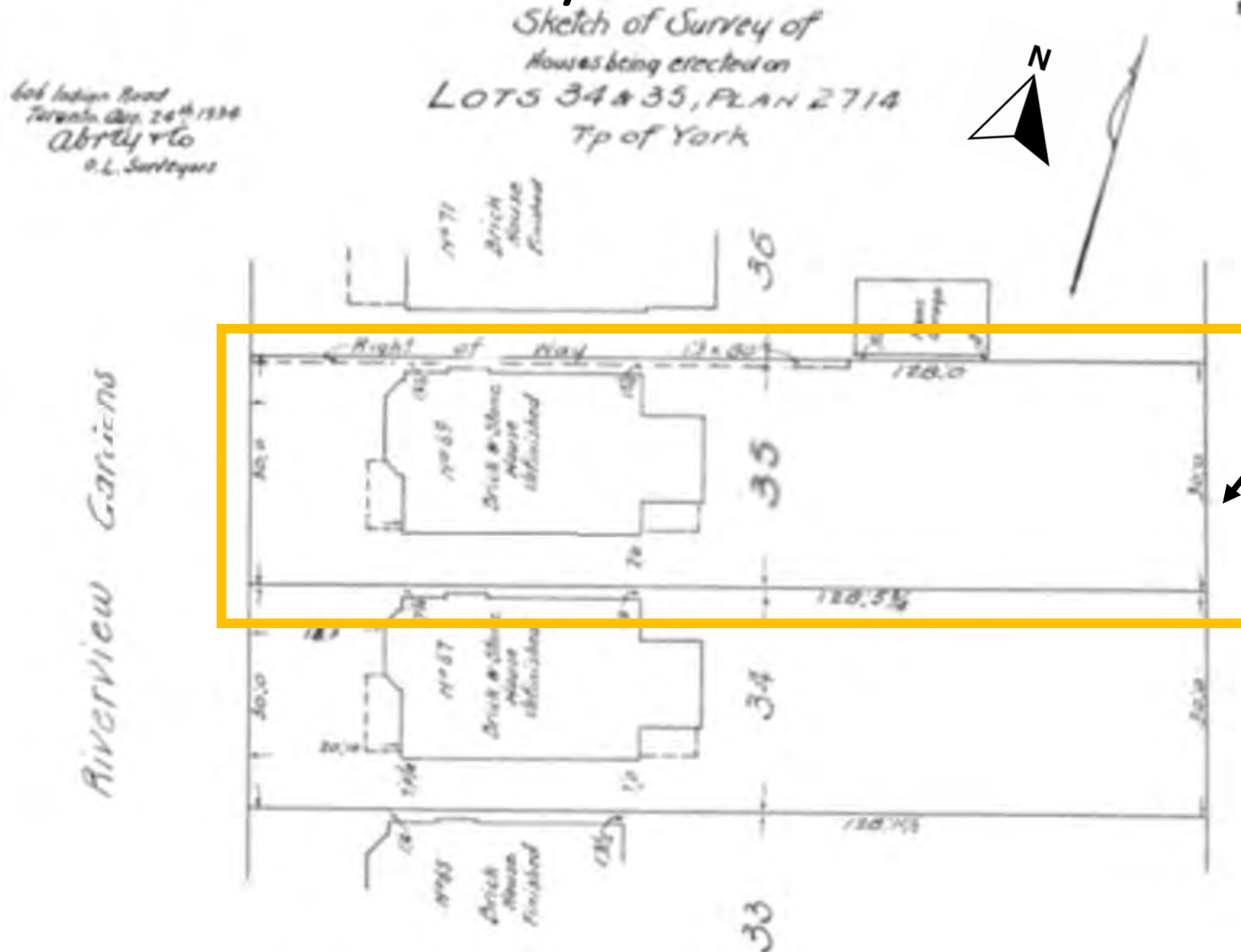


Green: 69 Riverview Gardens Lot

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



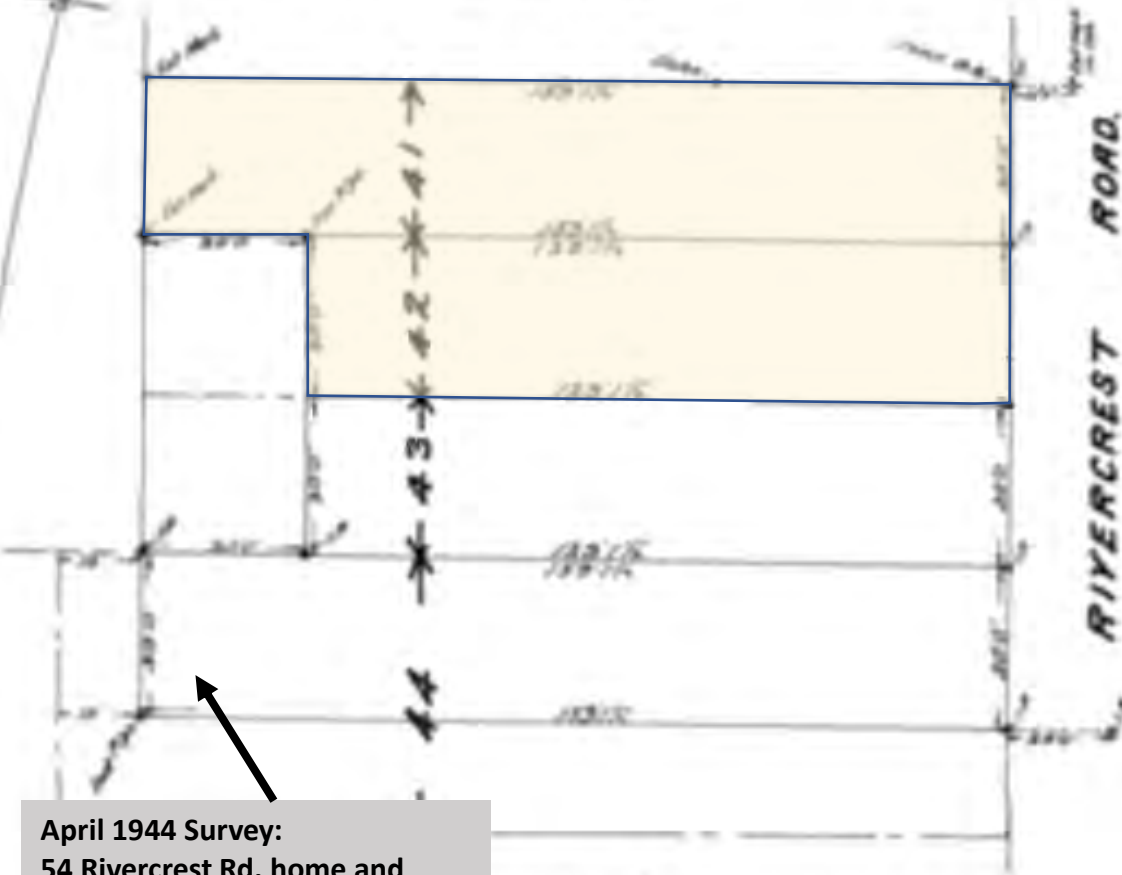
69 Riverview Gardens home was built in 1934. This survey is also from 1934.

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.

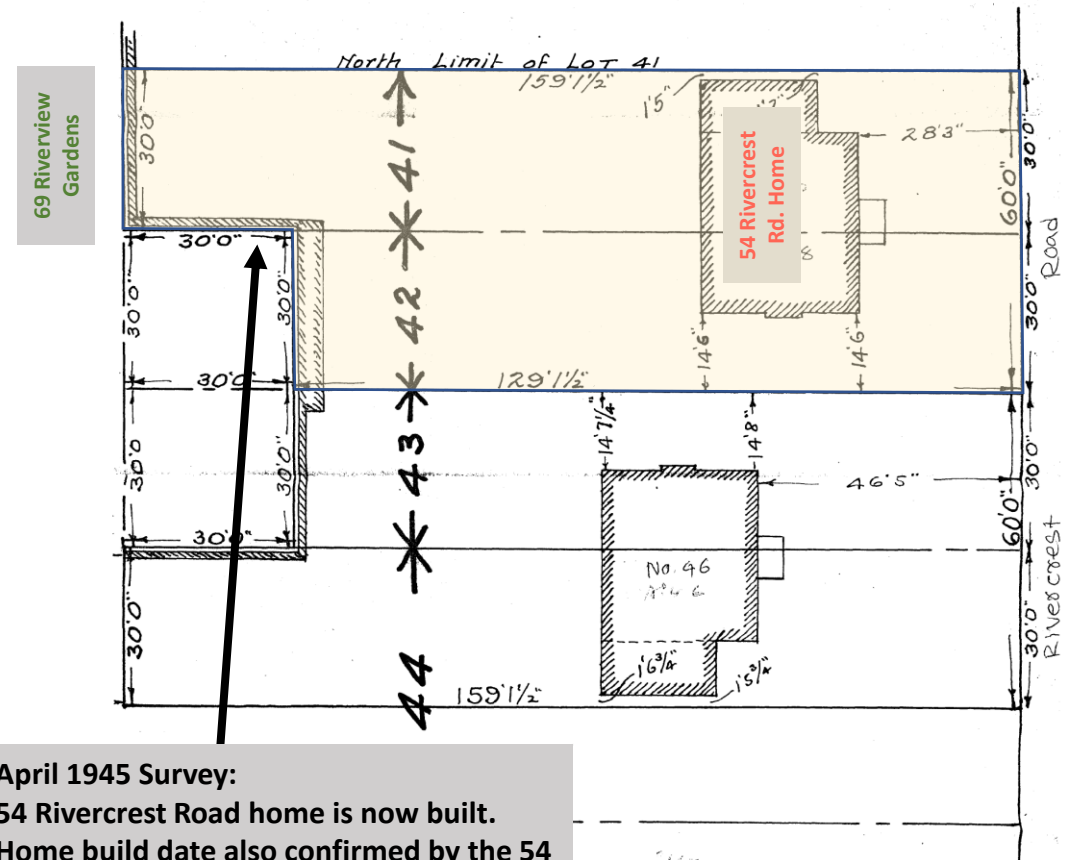


April 1944 Survey:
54 Rivercrest Rd. home and
retaining wall are not built; no
retaining wall shown on survey.

Browne & Cavell
Ontario Land Surveyors
Toronto Ont. 268/1338
Registered 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'

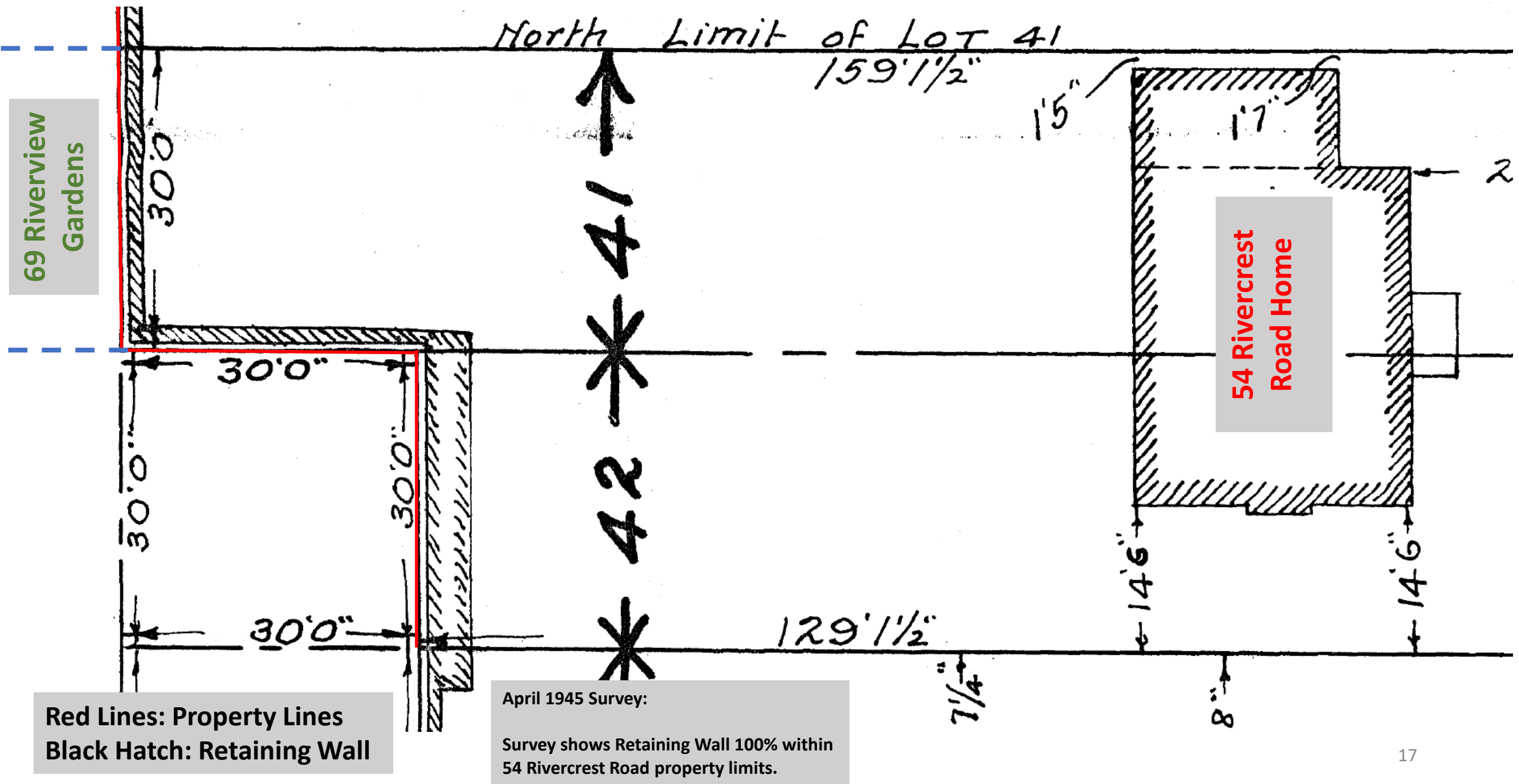


April 1945 Survey:
54 Rivercrest Road home is now built.
Home build date also confirmed by the 54
Rivercrest legal counsel (Baker Law).

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

(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

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

REFERENCE NO.
1
2714.Y

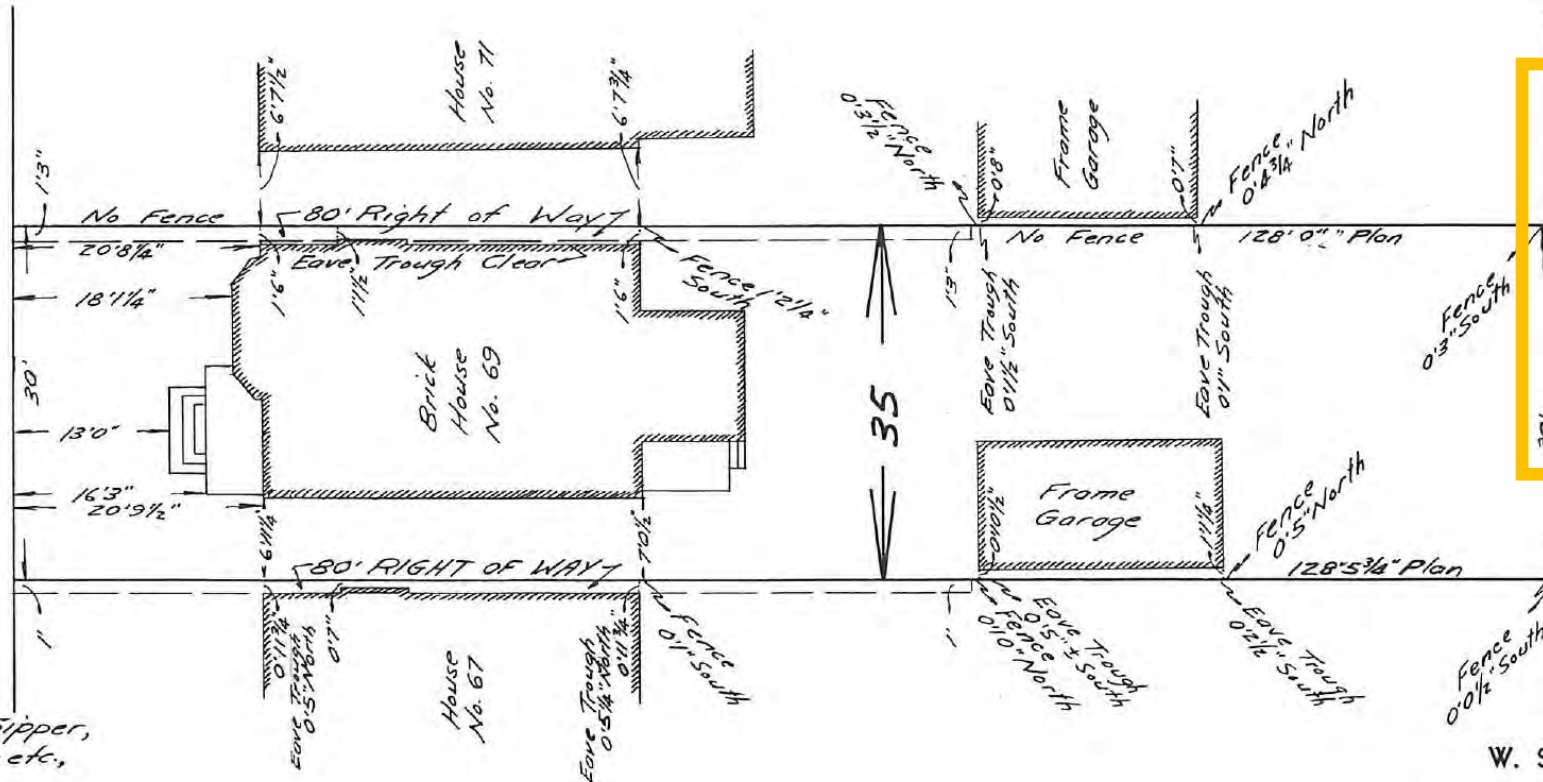
TORONTO 12, ONT. July 13th, 1955.

*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



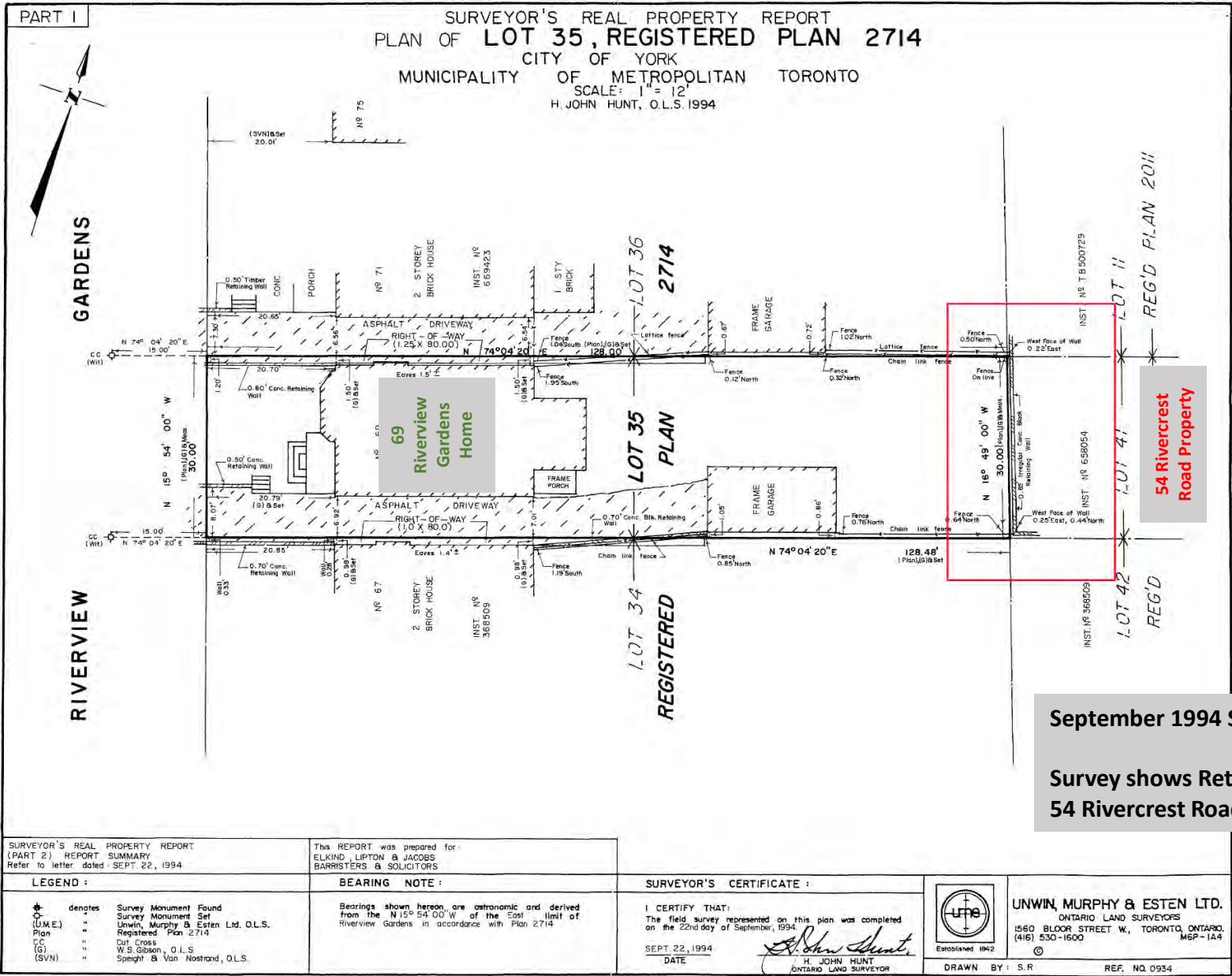
Survey Clearly States: West Face of Concrete Retaining Wall located 5 inches East of Property Line.

100% within 54 Rivercrest Rd property limits.

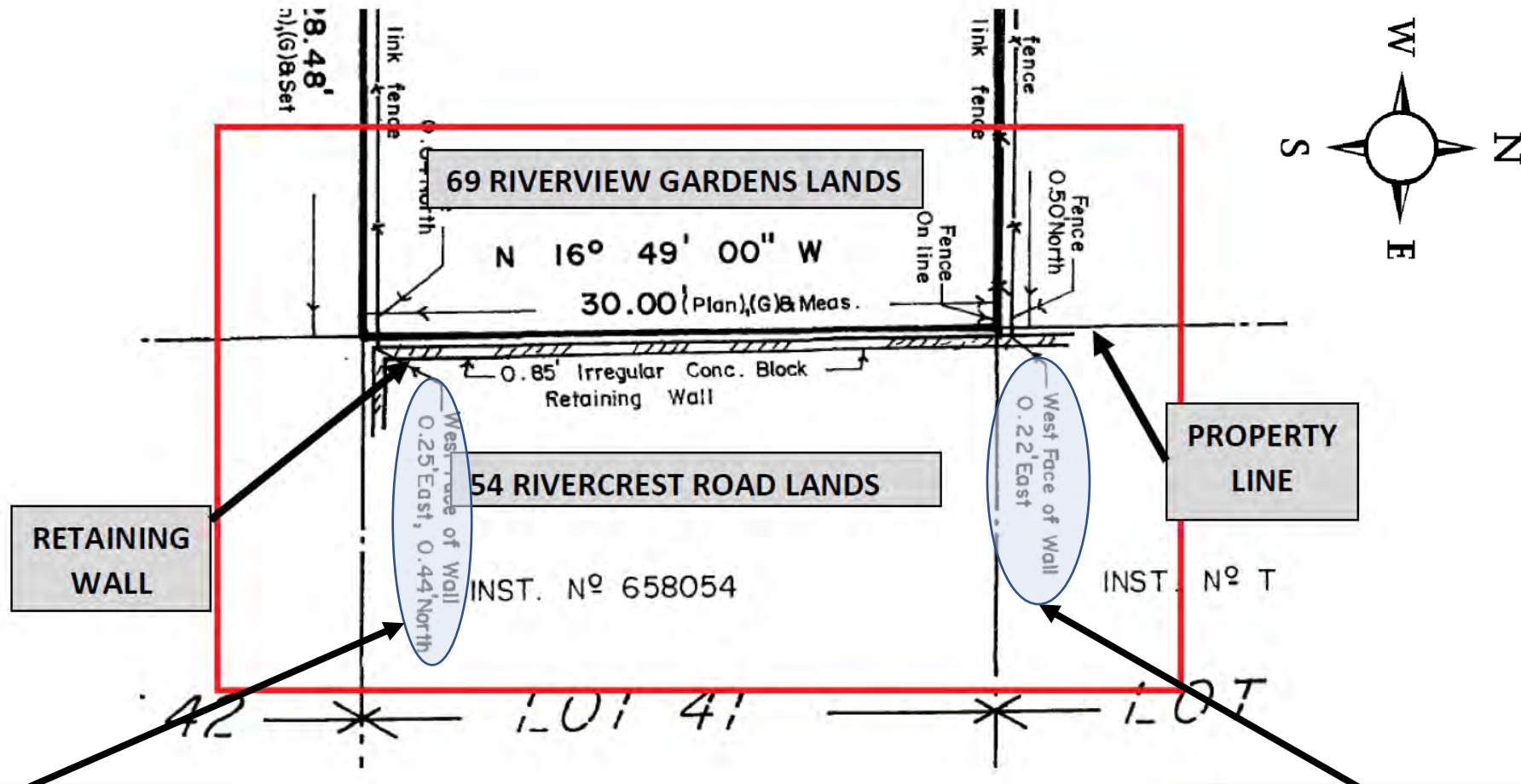
For:
Mr. William Henry Sipper,
Barrister etc.,
600 Bay Street,
Toronto, Ontario.

W. S. GIBSON & SONS
ONTARIO LAND SURVEYORS
13.2

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

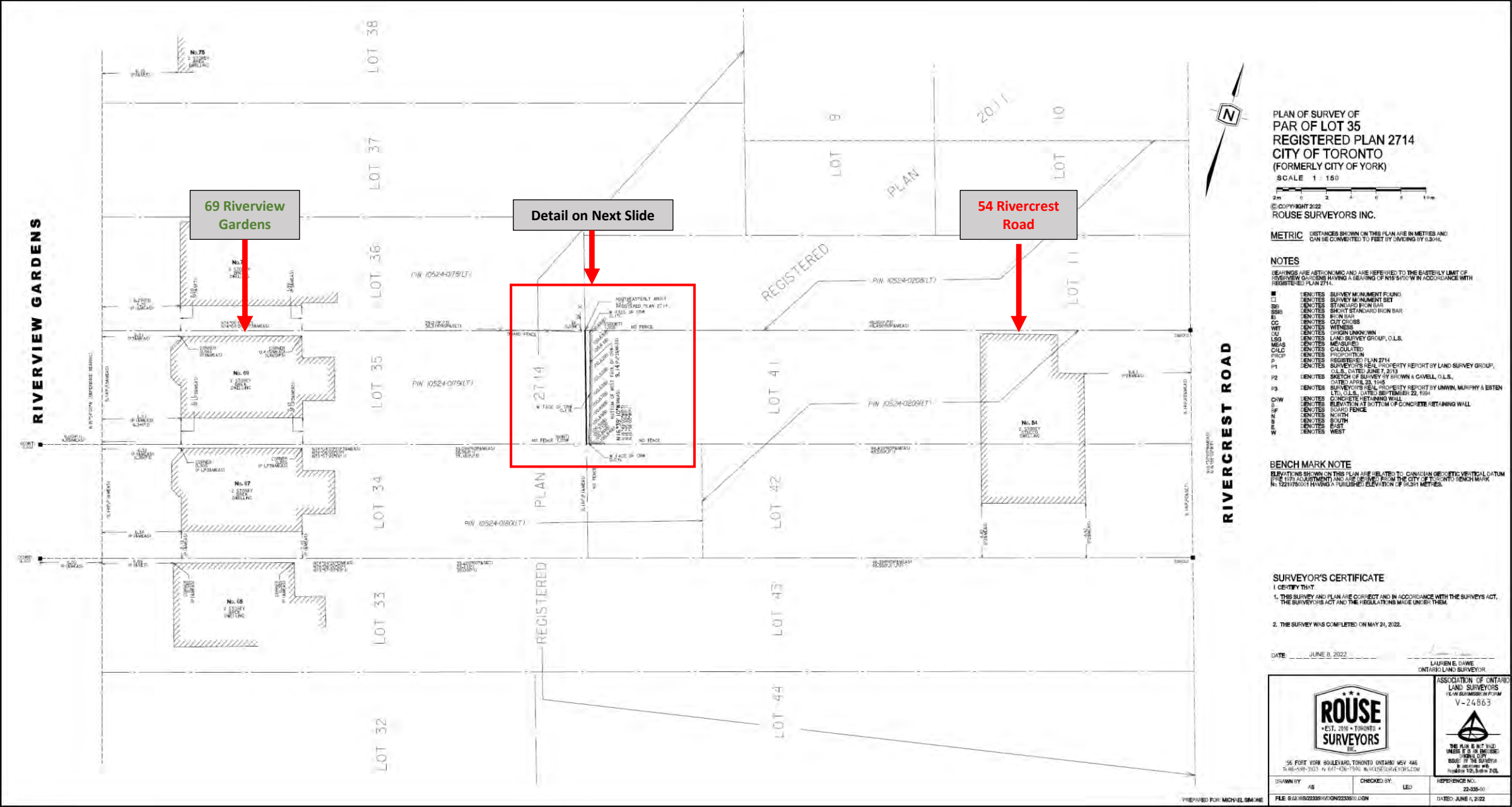
Adam J. Werrell
Ontario Land Surveyor
Speight, Van Nostrand & Gibson Ltd.
416.749.7864
werrell@svng.on.ca

**Note: Lot 41 is the 54
Rivercrest Road Property
(refer to 1944 and 1945 Surveys
of 54 Rivercrest Road on Slide 16
for Lot number)**

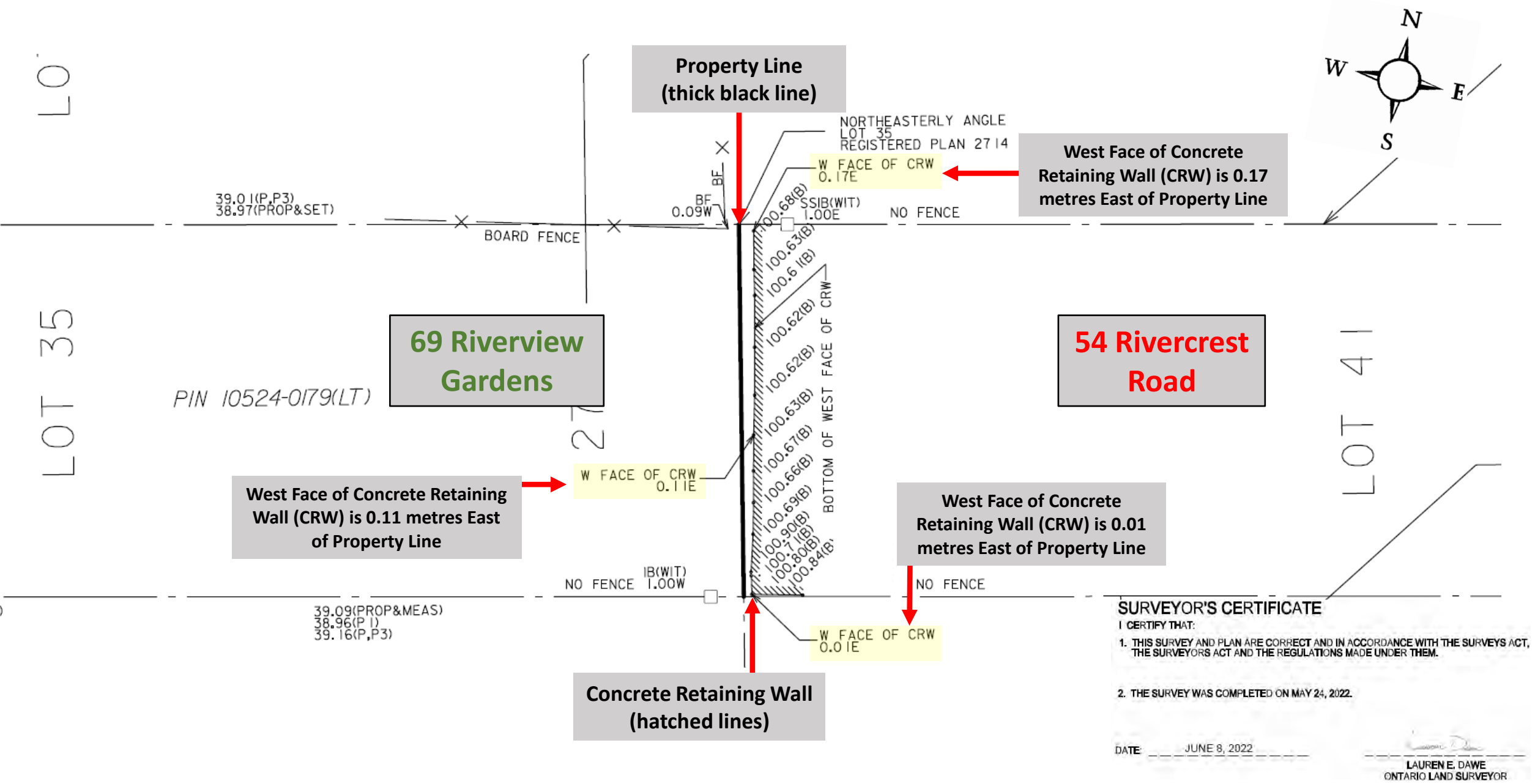
54 Rivercrest Road Survey – Review by Independent Surveyors

- March 18, 2022: Manager Toronto/East York District, provided owners of 69 Riverview Gardens with CAD format copies of the survey commissioned by 54 Rivercrest Road (survey dated August 4, 2021). The 54 Rivercrest survey is the basis by which the City of Toronto issued the Order to Comply against 69 Riverview Gardens.
- The owners of 69 Riverview Gardens had the 54 Rivercrest survey reviewed by two independent Ontario Land Surveyors (Rouse Surveyors Inc. & JD Barnes Limited). Each of these independent Surveyors determined that the 54 Rivercrest survey depicts only the TOP (rather than the base) of the retaining wall relative to the shared property line.
- The TOP of the retaining wall is leaning approximately +/-10 degrees off centre toward the 69 Riverview Gardens property and **does not reflect the physical location of the wall had it been maintained**.
- Example: If a shed has been neglected for decades and leans/falls over onto a neighbouring property, does the City of Toronto issue an Order to Comply against the owner of the property the shed fell on to? No – that would create a dangerous **precedent**. The party who owns and neglected the structure is ultimately responsible.

69 Riverview Gardens Survey (Dated June 8, 2022) - Full Survey



69 Riverview Gardens Survey (Dated June 8, 2022) - Wall Detail



69 Riverview Gardens Survey (June 8, 2022) - Written Confirmation

69 Riverview Gardens - Concrete Retaining Wall Survey

Lauren Dawe <lauren@rousesurveyors.com>
To: Michael Simone <michael.simone@gmail.com>

Wed, Jun 8, 2022 at 11:36 AM

Hey Michael,

Based on our measurements, I can confirm that the full length of the concrete retaining wall is located entirely on 54 Rivercrest Road lands (Lot 41).

Best Regards,

Lauren Dawe, BEng, OLS, OLIP, General Manager

ROUSE SURVEYORS INC.

56 Fort York Boulevard | Toronto, ON | M5V 4A6

T: 416-598-3933 x5 | M: 647-402-7801 | F: 647-436-7940

From: Michael Simone <michael.simone@gmail.com>
Sent: June 8, 2022 11:19 AM
To: Lauren Dawe <lauren@rousesurveyors.com>
Subject: 69 Riverview Gardens - Concrete Retaining Wall Survey

Lauren, further to the survey which your firm completed for our property at 69 Riverview Gardens and the concrete retaining wall, can you please confirm that the full length of the concrete retaining wall as measured from the base of the wall, is located entirely on the 54 Rivercrest Road lands (Lot 41)?

Thank you,

Michael Simone

69 Riverview Gardens Survey (Dated June 8, 2022)

- The 69 Riverview Gardens' June 8, 2022 survey is based on the generally accepted principle that retaining walls are surveyed from their base, particularly when the subject wall is in a state of disrepair.
- The 69 Riverview Gardens' June 8, 2022 survey clearly and conclusively shows that the base of the retaining wall along its whole length, is situated entirely on the 54 Rivercrest Rd lands, consistent with the 1945, 1955, and 1994 surveys.
- Four different surveys, by four different surveyors, over the course of 77 years ALL show the retaining wall on the 54 Rivercrest Rd lands.
- Had the City of Toronto had the benefit of the full evidence as presented herein when making its determination, an Order to Comply would have never been issued against 69 Riverview Gardens.

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.