

HALIFAX

**PETITION FOR
PRIVATE
RIGHT OF WAY
OF SUSAN
SUTHERLAND
(formerly Sheehan)**

Karen E. MacDonald
Senior Solicitor

March 24, 2015

The Properties

5 and 9 Milton Drive

APPENDIX "C"



HALIFAX

Ms. Sutherland's Petition under the Private Ways Act

- Ms. Sutherland has no vehicular access to her home and currently accesses her property by way of a public foot path that runs from the parking lot of Flemming Park, along the Northwest Arm, to Purcell's Cove.
- Ms. Sutherland filed a petition to Regional Council in November, 2010 under the *Private Ways Act* for a private way across the front of the property of Dr. and Mrs. Cron.
- Ms. Sutherland's Petition was considered by Halifax Regional Council on March 1, 2011.

Decisions of Council

- Council decided on March 1, 2011 to proceed with Ms. Sutherland's petition under the *Private Ways Act*
- Council appointed Deborah Baker as Commissioner on June 7, 2011

Attachment "C"

LEGEND
C.A. - CHARLTON ARCADE
M.M. - HALIFAX REGIONAL MUNICIPALITY
PID - PARCEL IDENTIFICATION NUMBER
H.C.R.O. - HALIFAX COUNTY LAND REGISTRATION OFFICE
D.B. - DOLLARD
O.H.W.M. - ORDINARY HIGH WATER MARK

NOTE
1. PURSUANT TO SECTIONS 18(1) AND 31 OF THE PRIVATE WAYS ACT, R.S.N.S. 1989, c. 35B.

**SKETCH OF
PARCEL PW-1
SHOWING PRIVATE WAY (EASEMENT)
TO BE AWARDED TO
SUSAN SUTHERLAND (FORMALLY SHEEHAN)
OVER LANDS OF
RITA MARIE CRON AND CHARLES
CLAUDIUS EDWARD CRON
3 MILTON DRIVE
HALIFAX, HALIFAX COUNTY, NOVA SCOTIA**

SDMM
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**DECEMBER 11, 2014
SCALE 1" = 30'
FILE NO. 1-2-23 (30943)
PLAN NO. 7-224-0**

HALIFAX

Compensation for Private Way

- The parties were unable to reach an agreement on the amount of compensation to be paid to Dr. and Mrs. Cron for the private way as laid out by Ms. Baker.
- Under the *PWA* the matter proceeded to arbitration, in front of a panel with 3 arbitrators.

Financial Implications

- Pursuant to section 29 of the *Private Ways Act*, if Council confirms the award of the arbitrators, Council must pay the amount of compensation determined by the arbitrators as well as all expenses incurred with respect to the arbitration.
- The arbitration panel granted Dr. and Mrs. Cron compensation in the amount of \$140,800.00 for the private way, plus a contribution towards the legal fees of \$16,800.00 for total compensation of \$168,447.15. With the addition of the arbitrators' fees, the total is \$230,060.67.
- These amounts will be recovered from Ms. Sutherland, as per Council's motion on March 1, 2011.

Authority of Council

Section 26 of the *Private Ways Act* sets out Council's authority:

- 26 (1) The council may confirm or disallow the report and, if it is satisfied that the amount of the compensation is either insufficient or excessive, it may disallow and set aside the agreement or award and direct a new appraisal of the compensation to be made, unless an agreement is entered into in respect thereto, and may delay action on the precept until a new agreement or award is made and transmitted.
- (2) The council may also either confirm or disallow the new agreement or award. *R.S., c. 358, s. 26.*

Recommendation

It is recommended that Halifax Regional Council:

1. Confirm the report of the Commissioner Deborah Baker, dated November 15, 2014, laying out a private way across the property at 5 Milton Drive for the benefit of 9 Milton Drive; and
2. Confirm the award of the Arbitrators as set out in the decision of the Arbitration Panel dated November 17, 2014.