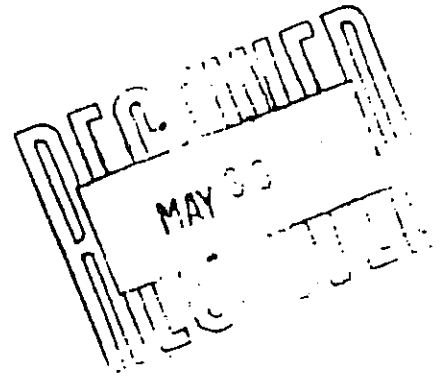


May 26, 1995

Mr. D.M. Bennett
Municipal Clerk-Treasurer
P.O. Box 3000
Windsor, Nova Scotia
BON 2T0



Dear Mr. Bennett:

RE: Municipality of West Hants - Street Improvement Bylaw

The above by-law which was adopted at a meeting of Municipal Council, held on May 9, 1995, has been approved by the Minister of Municipal Affairs. I return to you one copy bearing the Minister's approval dated May 25, 1995.

Yours truly,

Cathleen O'Grady
Departmental Solicitor
Department of Municipal Affairs

CO'G/lt
Attachment



Printed on paper that contains recycled fibre

MUNICIPALITY OF THE DISTRICT OF WEST HANTS

STREET IMPROVEMENT BY-LAW

1. This By-law shall be known as and may be cited as the "Street Improvement By-law".
2. In this By-law:
 - (a) "Costs" means the amount of money paid or payable in respect of the street "improvement".
 - (b) "Engineer" means a person who, through specialized education, training and experience, is skilled in the principles and practice of engineering.
 - (c) "Frontage" means the full length of any lot line which abuts a street.
 - (d) "Improvement" includes the laying out, opening, constructing, and improving streets, including the takeover of private roads by the Municipality, driveways, curbs, sidewalks, gutters, bridges, culverts, landscaping and street lights and its and their costs of operation and maintenance.
 - (e) "Municipality" means the Municipality of the District of West Hants.
 - (f) "Owner" includes a part owner, joint owner, tenant in common or joint tenant of the whole or any part of any real property fronting on a street, and also includes any trustee, executor, guardian, agent or other person having the care or control of such real property in case of the absence of or disability of the person having title thereto.
 - (g) "Private Road" means any street or road which is not public and is shown on the plan of subdivision, where:
 - (i) the design of the right-of-way, alignment, and gradient of the private road meets the design requirements of the Department of Transportation or of the Municipality, as the case may be; and
 - (ii) the street or road extends to and has access to a public street or public highway and where not totally located within the area of land proposed to be subdivided it shall be an easement for right-of-way and access which has been clearly granted by deed, or easement registered in the Registry of Deeds for this Municipality; and
 - (iii) the street has a minimum width of 20m (65.6 ft.) or 15m (49.2 ft.) where the entire roadway (slopes, ditches and roadbed) can be built within the 15m (49.2 ft.); and
 - (iv) the Department of Transportation or the Municipality, as the case may be, has approved the intersection of the private road with the public street or public highway.
 - (h) "Special Tax" means a tax in respect of the street improvement based on a per lot basis, a frontage basis, or an area rate based on per dollar of assessment, as the case may be, as requested in the Petition.
 - (i) "Subdivision" means the area as shown in the plan attached to Form

"A" of the Petition of the owners and in the absence of a Petition as in Form "A", in the plan presented to Municipal Council.

- (j) "Street" means any public street or public highway or portion owned and maintained by the Department of Transportation or the Municipality, as the case may be.

3. Where the Municipality is requested by owners of land to take over a private road and to maintain the same, the Municipality may do so provided:

- (1) The private road is constructed in accordance with the Subdivision By-law of the Municipality; and
- (2) Three-quarters of the owners of land fronting on the private road request the Municipality to take it over and to maintain the same; and
- (3) The entire cost of the take over and maintenance of the said road is paid for by the landowners in the same manner as an improvement to a street pursuant to the provisions of this By-law.

4. (1) When three-quarters of the owners of land fronting on a street, owning at least three-quarters of such frontage or where three-quarters of the owners of land in a subdivision petition in person or by agent the Municipality for an improvement to a street, the Municipality may make such improvement and shall be entitled to recover all of the cost of such improvement by levying a special tax upon the owners of real property fronting on the said street or situate in the said subdivision as herein provided by this By-law and such tax shall be recoverable from each owner by the Municipality by a per foot of frontage basis, or by a per lot basis, or by an area rate of so much on the dollar of the assessed value of the property in the area shown in the Petition in Form "A" as the case may be, as requested in the Petition in Form "A".

(2) In the case of recovery of the cost of the street improvement by area rate based on so much per dollar of the assessed value of the property in the area shown in the Petition in Form "A", such area rate shall be struck by Municipal Council, from year to year for a period of time not to exceed ten (10) years for capital expenditures and shall cover all projected costs to the Municipality for that year for such street improvement.

(3) Every petition for a street improvement shall be in Form "A" of this By-law or similar thereto, and every petition shall clearly state the locality in which the improvement is requested, with the following information certified correct by some person approved by Municipal Council:

(a) In the case of a subdivision by submission of a plan showing the roads outlined in red, which the petitioners are desirous of having improved, the names of the owners, the length and width of the roadways and the frontage of each owner if the method of levying the special tax is on a frontage basis.

(b) In all other cases, by submission of a plan showing the points between which the petitioners are desirous of having the improvement made, the distance between such points, the frontage of

each property, and all the names of the owners.

- (4) In the event of a dispute between an owner and the Municipality as to the measurements in either Subsection (3)(a) or Subsection (3)(b), the owner shall retain at his own expense a surveyor in good standing of the Association of Nova Scotia Land Surveyors who shall certify as to his own measurements and submit such measurements to the Municipal Clerk.
5. The total amount of the special tax levied by the Municipality under this By-law shall not exceed the total cost of the street improvements to the Municipality.
6. The special tax levied under this By-law is a lien on the whole of the property of each owner with the same effect as rates and taxes under the Assessment Act and each owner shall be liable for a portion of the total cost of the street improvement equal to:
 - (1) in the case of property fronting on a street, the ratio that the frontage of each owner bears to the total frontage of such street, or
 - (2) in the case of a subdivision equal to the ratio that each property bears to the total number of properties situate in the subdivision,
 - (3) an area rate of so much on the dollar of the assessed value of the property in the area shown in the Petition in Form "A" as the case may be as requested in the Petition.
7. The special tax levied under this By-law is collectible in the same manner as rates and taxes under the Assessment Act and by the same proceedings as are rates and taxes under the Assessment Act.
8. The lien provided for in this By-law shall become effective on the date on which the person appointed by Municipal Council or the Chairman of the Environment Committee as the case may be files with the Clerk of the Municipality a certificate stating the total costs of the street improvement and the amount of the special tax to be levied on each owner.
9. The Clerk of the Municipality shall keep a separate account of all monies due for the improvement of streets, which account shall contain:
 - (a) The names of the owners of property liable for the special tax and the name of the improvement with respect to which the tax arose.
 - (b) The amount of frontage each owner owns or the number of properties as the case may require.
 - (c) The amount of special tax levied on each owner with particulars of the amounts due or owing.
10. The Clerk of the Municipality shall notify the owner of each property upon the filing of the certificate referred to in Section 7 and such notice shall state:
 - (a) the basis of the special tax,
 - (b) the tax payable by the owner in respect of the special tax.
11. (1) The amount payable in respect of the special tax by each owner of real

property fronting on the street, or in the case of a subdivision situate in the subdivision for capital improvements shall be paid in equal annual instalments together with interest over a period not exceeding ten (10) years.

- (2) The first instalment and each succeeding instalment in respect of the tax imposed by this By-law shall be due on the same date as real property taxes and in the event of default of payment of any instalment the whole balance with interest becomes due and payable.
- (3) The tax imposed by this By-law shall bear interest in the same manner and at the same rate as set from time to time for outstanding rates and taxes.
- (4) The amount of tax imposed by this By-law for capital improvements may be paid in full at any time by the owner.

- 12. (1) Anyone wishing to install a driveway to a street shall apply to the Municipality for a permit.
- (2) The cost of the permit shall be set by Resolution of Council.
- (3) The cost of the installation of a driveway will be borne by the owner.
- (4) The Municipality hereby adopts the Department of Transportation & Communications Management Requirements for Driveway Entrances, Chapter 8, Section 10, 11, including the Department of Transportation & Communications Management Manual Stopping Sight Distances.

13. The Street Improvement By-law passed by the Council of the Municipality of the District of West Hants on the 14th day of June, A.D., 1987 and approved by the Minister of Municipal Affairs on the 10th day of August, A.D., 1987 be and is hereby repealed.

I, Dwight M. Bennett, Clerk of the Municipality of the District of West Hants, do hereby certify that the foregoing is a true copy of a By-law duly passed at a duly called meeting of the Municipal Council of the Municipality of the District of West Hants duly convened and held on the 9 day of MAY, A.D., 1995.

DEPARTMENT OF MUNICIPAL AFFAIRS

Recommended for approval of the Minister

Kathleen O'Grady
Deputy Minister

APPROVED this 25th day of May 1995.

[Signature]
Minister of Municipal Affairs

GIVEN under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this 10 day of MAY, A.D., 1995.

[Signature]

DWIGHT M. BENNETT, MUNICIPAL CLERK

APPENDIX "A"

FORM "A"

PETITION FOR STREET IMPROVEMENT

To the Municipal Council of the Municipality of the District of West Hants.

The Undersigned, being three-quarters of the owners:

(i) owning three-quarters of the real property fronting on the road or portion of the road in the Municipality of the District of West Hants, as hereinafter described

STRIKE OUT
CLAUSE THAT
IS NOT
APPLICABLE

or

(ii) owning three-quarters of the real property situate in the subdivision in the Municipal District of West Hants hereinafter described.

do petition the Municipal Council to make improvements to the street(s) more particularly described:

(i) as the road(s) or portion thereof known as

(ii) in the area situated at

as shown on the attached plan.

Also each of the owners, whose signature appears below, respectively propose that the Municipal Council accept this as a petition in compliance with Section 3 of the Street Improvement By-law.

ONLY ONE
METHOD
OF
CHARGING
FOR THE
STREET
IMPROVEMENT
IS APPLICABLE

Each of the owners, who signature appears below, pray that they be levied for a portion of the tax in respect of the street improvement on:

- (i) a per foot of frontage basis;
- (ii) a per lot basis;
- (iii) an area rate based on assessment.

Names and Signatures of Property Owners:

	<u>Name</u>	<u>Signature</u>
1.		
2.		
3.		
4.		
5.		