



Corporation of the Township of Brock

Staff Report to the Mayor and Members of Council

From: Fernando Lamanna
Position: Clerk/Deputy CAO
Title / Subject: Division Fence Apportioning Costs By-Law
Date of Report: October 5, 2023
Date of Meeting: November 13, 2023
Report No: 2023-GG-025

1.0 Issue / Origin

The Township's current procedure regarding The Line Fences Act is outdated and does not reflect today's best practice. The Line Fences Act has changed little since put in place, today it remains as the method to dispute resolutions for property owners. As the Township of Brock has become more urban since this Act was enforced and continues in that direction, staff have seen a shift in applications/inquiries from Agricultural to Residential property owners. The Line Fences Act was not intended for urban residential properties but more geared agricultural/rural lands.

2.0 Background

The Line Fences Act (Act) applies to the division of costs for the construction of fences between abutting property owners. The act allows for an arbitration procedure where the two owners cannot agree on the apportionment of costs, or the nature of the fence and a Fence Viewer is requested through the municipality.

3.0 Analysis

Line Fences Act provides a dispute resolution procedure between the owners of adjoining properties in Ontario if a municipality does not have a by-law that addresses correspondences in this Act.

The current fence practices we use are required using services of fence viewers, as of the calendar year 2023 the Township has not appointed any current fence viewers. In addition, Brock has not held any formal fence viewing hearings in sometime. The Township's standard practice in place currently is to attempt to resolve the disputes between neighbours. The traditional and standard practise when hearing fence viewing complaints is based on a 50/50 cost sharing decision. If a dispute can not be resolved an application to use the services of the fence viewers provided by the Township is required.

The Municipal Act Section 90 (1) (2) to opt out of the Line Fence Act. One of the requirements of opting out of the Line Fences Act is that the municipality must adopt a by-law to provide residents with a guide on how the cost of a fence is to be divided amongst property owners.

The proposed Division Fence By-law, attached as Appendix “1”, provides a process and mechanism for a property owner to recover the costs of a fence that has been erected or repaired. Any such disputes about the division of costs would be between property owners, and they would need to pursue the matter through a civil process. This provides a clear step by step template for residents to follow.

In accordance with the proposed Division Fence By-law there are two drafted letters for the public to use when seeking costs between neighbours.

4.0 Related Policies / Procedures

No related policies or procedures.

5.0 Financial / Budget Assessment

There are no financial obligations as it relates to the introduction of a new Division Fence By-Law.

6.0 Climate Change Impacts

There are no climate change impacts in relation to this report.

7.0 Communications

This report is published on a public agenda, in addition staff will update relevant web pages with the new Division Fence By-Law procedures.

8.0 Conclusion

With the adoption of a new fence bylaw procedure residents of Brock Township will have clear direction as it relates to seeking shared costs for the construction of residential fences.

9.0 Recommendation

- 1. BE IS RESOLVED THAT** the Report 2023-GG-025, regarding the Division Fence Appointing Cost By-law be received; and
- 2. THAT** Council direct staff to present the proposed Division Fence Appointing Cost By-law No. 3210-2023, at the next regular council meeting for adoption; and
- 3. THAT** Council direct staff to post the proposed By-laws on the Township’s website for public feedback and advertise these materials through the website and social media.