



Hamilton

COMMITTEE OF ADJUSTMENT

City Hall, 5th floor, 71 Main Street West, Hamilton, ON L8P 4Y5
Telephone (905) 546-2424, ext. 4221, 3935 Fax (905) 546-4202
E-mail: cofa@hamilton.ca

NOTICE OF PUBLIC HEARING

Application for Consent/Land Severance

APPLICATION NUMBER: SC/B-21:99

SUBJECT PROPERTY: 53 Pisa Dr., Stoney Creek

APPLICANT(S): Owners Lamees Al-Bassam/Mohammad Al-Rady
Agent Steven Pordage

PURPOSE OF APPLICATION: To validate the title of a parcel of land under the provisions of Section 57(1) of the Planning Act, correcting a Planning Act Validation that occurred during a past real estate transaction on the subject property.

Subject Lands Shown as Part 1 on the attached sketch

Background See attached Schedule "A"

The Committee of Adjustment will hear this application on:

DATE: Thursday, November 25th , 2021
TIME: 2:50 p.m.
PLACE: Via video link or call in (see attached sheet for details)

To be streamed at
www.hamilton.ca/committeeofadjustment
for viewing purposes only

PUBLIC INPUT

Written: If you would like to submit written comments to the Committee of Adjustment you may do so via email or hardcopy. Please see attached page for complete instructions, including deadlines for submitting to be seen by the Committee.

Orally: If you would like to speak to this item at the hearing you may do so via video link or by calling in. Please see attached page for complete instructions, including deadlines for registering to participate.

MORE INFORMATION

For more information on this matter, including access to drawings illustrating this request:

- Visit www.hamilton.ca/committeeofadjustment
- Call 905-546-CITY (2489) or 905-546-2424 extension 4221, 4130, or 3935
- Email Committee of Adjustment staff at cofa@hamilton.ca

SC/B-21: 99
PAGE 2

DATED: November 9th, 2021

Jamila Sheffield,
Secretary-Treasurer
Committee of Adjustment

Information respecting this application is being collected under the authority of the Planning Act, R.S.O., 1990, c. P. 13. All comments and opinions submitted to the City of Hamilton on this matter, including the name, address, and contact information of persons submitting comments and/or opinions, will become part of the public record and will be made available to the Applicant and the general public.

PLAN OF SURVEY
 OF PART OF
BLOCK 23
PLAN 62M-968
 IN THE
CITY OF HAMILTON

SCALE 1:200 METRIC

S/C McLaren, O.L.S. - 2005

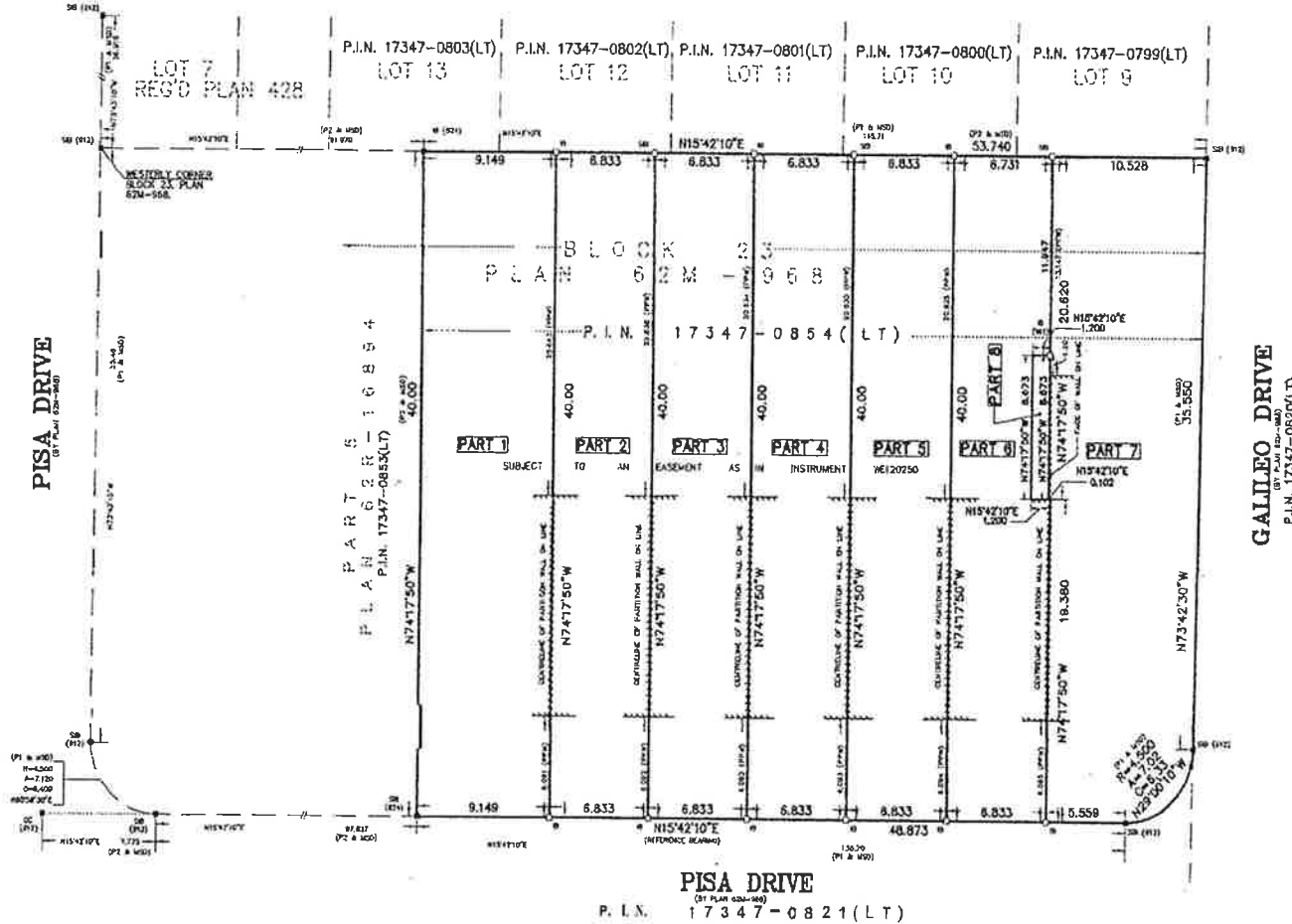


SCHEDULE			
PART	LOT	PLAN	P.I.N.
1			
2			
3			
4	PART OF	PLAN	ALL OF
5	BLOCK 23	62M-968	P.I.N. 17347-0854(LT)
6			
7			
8			

PLAN 62 R-17147
 RECEIVED AND DEPOSITED
 Date 2005-05-11
C. LANGRISH ADLR
 LAND REGISTRAR FOR THE LAND
 TITLES DIVISION OF ONTARIO (No. 62)
 I REQUIRE THIS PLAN TO BE
 DEPOSITED UNDER THE LAND
 TITLES ACT.
 Date MAY 3, 2005

 S.O. McLAREN, O.L.S.

PARTS 1 TO 8 ARE SUBJECT TO AN EASEMENT AS IN INSTRUMENT W6120250.



- LEGEND:
- ST --- INSTRUMENT BY
 - SB --- INSTRUMENT FROM
 - SP --- STIPPLED BOUNDARY
 - MS --- MEASURED
 - PI --- P.L.A.N. 62M-968
 - PC --- PLAN 62M-968
 - PD --- PLAN 62M-1294
 - PP --- PLAN 62M-1294
 - PPR --- PRODUCTION OF PARTITION WALL
 - PPM --- PRODUCTION OF FACE OF WALL

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

BEARING NOTE:
 BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO THE NORTHWESTERLY LIMIT OF PISA DRIVE AS SHOWN IN PLAN 62M-968 AS BEING N15°42'10"E.

SURVEYOR'S CERTIFICATE
 1. CERTIFY THAT
 2. THE SURVEY WAS COMPLETED ON THE 11th DAY OF MAY, 2005
 MAY 3, 2005
 DATE
 S.O. McLAREN, O.L.S.

A.T. McLaren Limited
 LEGAL AND ENGINEERING SURVEYS
 69 JOHN STREET SOUTH, SUITE 230
 HAMILTON, ONTARIO, L8N 2Z9
 PHONE (905) 577-8569 FAX (905) 527-0132
 Drawn By Checked By Scale 1:200 (Height 3000-11-1)

Schedule "A"

This Application is to correct a title error, the result of which is that the current registered owner does not have good title to the subject property.

The Facts and Title History

The subject property is the end unit of a row of townhomes. The applicants purchased the property from Forrest Raymond Frederick Walker and Kathleen Ann Walker (the "Walkers") pursuant to a Transfer registered as Instrument No. WE1482502 on January 11, 2021. The Walkers purchased the property directly from the builder Di Cenzo Company Construction Limited ("Di Cenzo") pursuant to a Transfer registered as Instrument No. WE423870 on October 2, 2006. At the time the Walkers purchased the subject property, Di Cenzo also owned the property immediately to the north.

There was a By-law re: Removal of Part Lot Control (the "Original By-law") which was registered on the subject property as Instrument No. WE265384 on September 30th, 2004. A copy of the Original By-law is attached. The problem is that the Original By-law expired September 30th, 2006 and the Walkers acquired the subject property two days later on October 2, 2006.

There were two further By-laws re: Removal of Part Lot Control enacted in relation to the subject property. By-law No. 05-217 (the "Second By-law") extended the part lot control exemption until July 13, 2007. By-law No. 08-160 (the "Third By-law") extended the part lot control exemption until June 25, 2010. The Second By-law and the Third By-law, both of which are attached, each provided that:

"This by-law shall be registered on title to the said designated land and shall come into force and effect on the date of such registration."

Unfortunately, neither By-law was registered on title to the subject property. Accordingly, as Di Cenzo continued to own the property to the north when the subject property was transferred to the Walkers, the Transfer to the Walkers was void under the *Planning Act*, R.S.O. 1990. Accordingly, the Transfer from the Walkers to the applicants was also void.

The Nature of the Subject Lands

Until the expiry of the Original By-law the subject property was a separately conveyable parcel of property. Furthermore, had the Second By-law or Third By-law been registered, the subject property could have been correctly conveyed to the Walkers and the Walkers would have been able to correctly convey it to the applicants. The subject property has its own legal description and has its own PIN recorded in the Land Titles system.

The subject property is used as a residential dwelling and it will continue to be used as a residential dwelling.

Planning Considerations

There should be no planning considerations for this Application since the only issue is the retroactive validation of title.

The Purpose of the Application

The request for a Certificate of Validation is to validate title to the subject lands.

We would respectfully request that a Certificate of Validation be issued for the following lands without conditions:

Part Block 23 Plan 62M-968, Part 1 on Plan 62R17147; subject to an easement as in Instrument No. WE12050; subject to an easement as in Instrument No. WE423870; City of Hamilton