

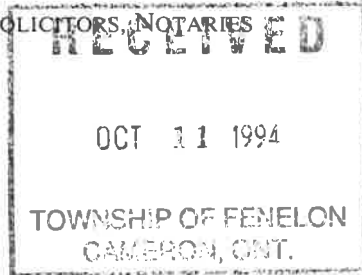
Staples, Swain and Gunsolus

BARRISTERS, SOLICITORS, NOTARIES

Joseph L. Staples, Q.C. (1920-1988)

Ronald J. Swain, B.A., LL.B.

Drew Sterling Gunsolus, Hons. B.A., LL.B.



October 4, 1994

CONFIDENTIAL

P.O. BOX 455
10 WILLIAM ST. S.

LINDSAY, ONTARIO

K9V 4S5

705-324-6222 FAX 705-324-4168

BRANCH OFFICE

SUNDERLAND

(705) 357-3287

Tuesday Afternoon

Our File No. 13308

TOWNSHIP OF FENELON
R.R. #1
CAMERON, ON
KOM 1G0

Attention: Nancy Wright-Laking

Dear Ms. Wright-Laking:

Re: Plan 414, Pleasant Valley

We acknowledge receipt of your letter of September 22, 1994.

The property was developed by Plan of Subdivision in 1961. The developer, Kawartha Realty Limited, entered into a Subdivision Agreement with the Township of Fenelon in 1962. I enclose a photocopy of the Subdivision Agreement. There was no personal guarantee given by the shareholders of the company and there was no security posted to guarantee performance.

From the Subdivision Agreement you will see that the lands were to be used for summer cottage purposes. The director of Kawartha Realty Limited by letter dated July 19, 1974 pointed out that the company engaged the services of Jackett Construction to install roads to the norm of roads for summer cottages appropriate for 1961/62.

Also, when the developer sold the property, he attached to each deed restrictive covenants. I enclose a photocopy of Schedule "A" attached to each deed. In particular, I draw your attention to paragraph 4 of that schedule. As a result of these restrictive covenants, each property owner was put on notice that the vendor, Kawartha Realty Limited, would not be responsible for the maintenance of the roads.

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As time passed, the use of the properties in Plan 414 has changed. The expectations of those who purchased lots in Plan 414 have changed. As a result, in 1977 the Township deemed Plan 414 not to be a Registered Plan of Subdivision for purposes of the "severance section" of the Planning Act. The by-law is By-Law 3004 for the Township of Fenelon.

In 1976, a gentleman by the name, Harold J. Taylor, purchased Lots 15, 16, 17, 23, 24, 25, 19, 20, 76 and 77 on Plan 414. Because the lots had been "deemed" Mr. Taylor approached Township Council requesting that the Deeming By-Law be repealed as it applied to the properties he owned. The Township agreed to repeal that portion of the by-law applying to Harold Taylor's lots provided Harold Taylor would pay the sum of \$14,000.00 to the Township as a contribution toward improving the roads. The payment was made. The Deeming By-Law was in part repealed so as to grant Mr. Taylor the release he sought.

No releases of the Subdivision Agreement were being granted because the roads in the subdivision were not to municipal standards. When Mr. Taylor paid his \$14,000.00, then the Township granted to Mr. Taylor a release of the Subdivision Agreement for the lots he owned based on his contribution to road improvement.

Council then made a policy that others in Plan 414 could obtain a release from the Subdivision Agreement if they also contributed to the cost of upgrading the roads. Several property owners have done just that, they have paid a sum of money to Fenelon, and have received a release of the Subdivision Agreement.

I am not sure where Mr. Pugsley fits into this "scene". If he is one who has contributed to the cost of upgrading the road and has received a release of Subdivision Agreement as it applies to his lot, then he may have a legitimate concern that the roads have not been upgraded.

I suggest that Council consider, as a very minimum, the following matters:

1. Which properties have been released from the Subdivision Agreement and which properties have not been released.
2. What sum must be paid to the Township in order that a lot be released from the Subdivision Agreement.

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Township of Fenelon - 3 -
Attention: Nancy Wright-Laking

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3. Council's agreement that releases for lots will not be granted unless the sum specified has been paid.
4. The Township's schedule for upgrading the roads, that is, which sections are to be upgraded and the timing for the upgrading of the various sections.

When Council has this information at hand, I am of the opinion it will be much easier to deal with Mr. Pugsley and any other property owner in the Subdivision Agreement.

As always, the foregoing opinion is respectfully submitted for your consideration and for the consideration of your Council.

Yours very truly,
STAPLES, SWAIN & GUNSOLUS


Ronald J. Swain

RJS*mm
Encls.

#7300

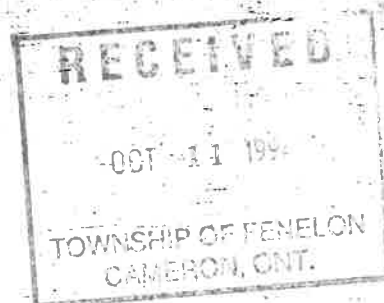
Exhibit 2
Signed August 1964

Thomas: Public

AGREEMENT made

BETWEEN:

KAWARTHA REALTY LIMITED, a body corporate incorporated under the laws of the Province of Ontario having its head office in the Town of Lindsay in the County of Victoria,



hereinafter called

"THE COMPANY"

AND:

THE MUNICIPALITY OF THE TOWNSHIP OF FENELON

hereinafter called

"THE MUNICIPALITY"

WHEREAS Kawartha Realty Limited is a sub-divider of certain lands being part of Lot 7 in the 9th Concession of the Township of Fenelon and whereas the said Kawartha Realty Limited agrees with the Municipality as follows:

1. The Company agrees to satisfy such financial requirements and other requirements of the Municipality as to drainage and the construction of roads and the maintenance of the canal as the Township may from time to time by resolution require.
2. The Company agrees that it shall convey five per cent (5%) of the land within the plan of the sub-division to the said Municipality for public purposes pursuant to Section 25 (5) of the Planning Act.
3. The Company consents to a by-law of the Township of Fenelon pursuant to Section 30 of the Planning Act; such by-law to restrict lands to summer cottage purposes and to buildings not more than one single family dwelling for such purposes on each of the lots as shown on the plan, together with such accessory buildings which shall not be used for human habitation.
4. The Company agrees with the Municipality that if natural drainage or otherwise fail to produce sufficient flow to stop stagnation to a point where the Medical Officer of the Municipality certifies that the same would be injurious, then the Company shall produce artificial flow by mechanical means such as pumps or otherwise to produce sufficient flow.
5. The Company agrees that it will not apply to the Municipality for a building permit for any lot that has not been raised to a minimum elevation of 24.5 feet.

84.5

6. The Company agrees on behalf of itself, successors and assigns that there shall be no further sub-division of any lots or blocks except by new application under Section 23 of the Planning Act.

7. The Company agrees that all dead ends and open sides of road allowances created by the plan shall be terminated in one-foot reserves and the Company further agrees to convey these one-foot reserves to the Municipality.


8. The Company agrees to convey such easements as are necessary and required by the Municipality for utility or drainage purposes.

IN WITNESS WHEREOF the Corporation and the Municipality have hereunto set their seal attested by the proper officers in that behalf.

SIGNED, SEALED AND DELIVERED

IN THE PRESENCE OF

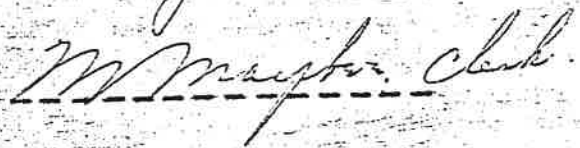
ANIMATIA REALTY LIMITED

 PRESIDENT

 SECRETARY

MUNICIPALITY OF THE TOWNSHIP OF FENelon





SCHEDULE

" A "

1. ✓ No part of the real property or any buildings thereon may be used for commercial or club use.
2. There shall not be erected or stand on the within described premises more than one single family dwelling and one double car garage and no addition or extension to the original dwelling may be erected which will increase the area of the original dwelling by more than 200 square feet, provided however that the addition or extension is of the same material as the original dwelling.
3. No outside toilet or toilet facilities may be used or allowed to be used or installed, and the Purchaser will, within three months from the date of completion of the said dwelling, have installed inside the said dwelling one inside toilet of the "Pail-a-Day" type or flush toilet with septic tank.
4. The Vendor shall in no way be responsible for maintenance of roads, bridges, sidewalks and/or foot paths, nor for any accident which may occur to persons or vehicles using same, and unless the roads are assumed by the Township or County, it shall be maintained in a good state of repair by the owners and/or occupants from time to time of the dwellings erected on the lands registered under the said Plan. The purchaser agrees to contribute towards the cost of maintenance of the road on a pro rata basis with other owners of dwellings erected on the lands registered under the said Plan with the exception of the Vendor and more particularly described under Paragraph 17.
5. The Purchaser will enter into a "Cottagers' Association" with other owners of the said Plan, the purpose of which is the proper maintenance and upkeep of the canal, roads, sidewalks, foot paths and/or public areas, etc., and agrees to contribute towards the cost of maintenance on a pro rata basis. The Purchaser agrees that the constitution of such Association shall include:
 - (a) that such Association shall constitute the owners from time to time of the lots as shown on Plan 414.
 - (b) that each owner shall have one vote at each meeting for each lot he shall own on the said Plan.
 - (c) that any decision shall be by vote and the majority of votes shall govern.
 - (d) that if at any time any maintenance be necessary on the canal, it shall be decided by the Association and each member shall be assessed rateably for the work done on a foot frontage basis of the owners of lots fronting the canal, and lots not fronting on the canal in accordance with their road frontage, and the Purchaser covenants and agrees with the Vendor and with the other Purchasers that they will pay the amount so assessed.
 - (e) that the Association shall meet at least once a year in the months of July or August.
6. The Purchaser agrees to paint his buildings erected upon the real property with at least one ground coat within thirty days after completion, erection or possession and to paint the said buildings with a second coat within sixty days from completion.
7. The Purchaser acknowledges that the Vendor is not responsible for an adequate water supply for drinking or any other purpose, nor for the maintenance of pumps or any other items in connection with water supply if any.
8. The Purchaser acknowledges that only drilled-capped wells shall be allowed for drinking purposes.
9. No patio walls, fences or hedges shall be greater in height than four and one half feet.