

David and Catherine Tang
Burnt River

March 1, 2024

Sent via Email

Mayor Doug Elmslie and City Council
City of Kawartha Lakes
Clerk's Office
26 Francis Street
Lindsay, ON K9V 5R8

Attention: Cathie Ritchie, City Clerk

Dear Mayor and Council:

Re: RS2024-03 and Encroachment Enforcement Actions/Licence Request 106 Bond Street West, Fenelon Falls

My wife and I are the owners of property on Woodfield Drive and regularly use the Rail Trail that is the subject of this enforcement action. Indeed, the Rail Trail is a primary reason for us even choosing to be in the City.

I am writing to support the City Solicitor's recommendation that Council:

- Require the owners of 106 Bond Street West be required to remove the Encroachments and restore the Rail Trail entirely at their expense; and
- Refuse to grant any licence for any of the encroachments into the Rail Trail, namely the retaining wall, stairs irrigation pump with housing, and planter adjacent to 106 Bond Street West, Fenelon Falls.

It is highly unfair and inappropriate for a private landowner to claim for their own use and convenience publicly owned and publicly utilized infrastructure like the Rail Trail. It is a public resource, serving more than even the residents of the City. To provide permission for these owners to encroach into and reduce the public amenity of this public amenity would set a completely inappropriate precedent for not only decisions affecting the rest of the Rail Trail, but other municipal property. Such a decision will undoubtedly be relied upon by others wanting to claim a portion of this and other municipal amenities. Any permission for a licence or encroachment of private facilities will become a precedent for other encroachments, eventually resulting in this and other public amenities becoming privatized in significant ways. Clichéd as the saying is, this truly is the thin edge of wedge.

In any event and on a site-specific basis, the encroachment is significantly incompatible with the trail, its use and future plans as staff's report so clearly indicate.

This is not a case where there will be undue hardship to the owners. While this is not a blatant attempt to appropriate public lands for their own use, the owners cannot be said to have come with completely clean hands to the municipality. Even if they were truly unaware of the encroachments, there was not appropriate due diligence when they bought the property. Nor are they without recourse. They may have title insurance or a claim against their advisers. In any event, given the crucial and strategic location of the encroachments at the trail access, the public interest outweighs their private interests.

Thank you for your consideration of this crucial issue affecting one of the primary amenities of the City.

Yours very truly,

A handwritten signature in blue ink, appearing to read "D. Tang". The signature is stylized and cursive.

David Tang