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March 2, 2020
File No. 0042525

THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT
Attn. Mayor and Council members
Municipality of Chatham-Kent Civic Centre
315 King Street West, P.O. Box 640

VIA EMAIL
(ckmayor@chatham-kent.ca)

Your Worship/Members of Council:

Re: Erie Shore Drive, Chatham-Kent

We have been engaged by Ms. Terra Cadeau and Mr. Murray Spencer on behalf of the Erie Shore Drive Property Owners Association (“ESDPOA”) with respect to the work proposed on Erie Shore Drive.

We are writing to express our clients’ opposition to the proposed closing of Erie Shore Drive between Erieau Road and 18416 Erie Shore Drive.

In our view, it would be patently unreasonable to make the decision to close Erie Shore Drive on a permanent basis at this time.

In the Declaration of Emergency of February 28, 2020, notice was given that Chatham-Kent Administration intended to ask Council to close Erie Shore Drive on an indefinite basis at today’s council meeting. At some point subsequent to that, Notice of the Proposed Road Closing was posted on Chatham-Kent’s website and circulated to some property owners indicating that a permanent closing was being recommended by Administration. This short and inconsistent notice is not sufficient notice for a permanent closing, if that is in fact what is intended. Although we appreciate that these may be emergent circumstances, there is no reason why the closure could not be done on some other timeline, pending further investigation and discussions with all stakeholders, while avoiding the need for a motion to reconsider in the event that new information is received.

The materials that have been provided to property owners variously reference engineering “information”, “advice”, “opinion” and “recommendations” received by Chatham-Kent, but the staff report dated February 28, 2020, does not include any form of report, or even the name of the engineer that has provided this opinion, nor does it provide any details of the work that the recitals to the proposed closing by-law indicate has been recommended. If there is an engineering report in any form, it should be provided for review immediately.

The consequences of a permanent closure would be drastic for the affected property owners. It would be entirely unreasonable for Chatham-Kent to proceed with this decision without giving property owners the ability to consider the technical grounds on which closure is being recommended by Administration, and without giving property owners the opportunity to obtain professional advice and make submissions to Council about possible alternatives that could avoid a permanent closure of road access to their properties.

Our clients’ proposal for proceeding is as follows:

- 1) Direct the engineering office to close the road to all traffic for 30 days under their normal powers (that is, without passing a by-law for permanent closure).
- 2) Direct engineering to move the blocks to the south shoulder or as far onto private property as possible. Some areas may be on the road. Some may be on private property. Provide as much room as possible in all locations. Delay installation of the clay berm to allow vehicle access when construction is not underway. This will allow the work to protect the dyke to begin while still reviewing the extent and means of action to respond to the purported emergency.
- 3) Call for a special meeting in three weeks from today to deal with further action.
- 4) Direct engineering to review all plans with the ESDPOA.

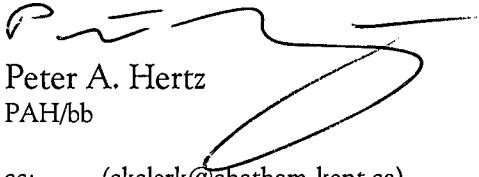
We hope that Council sees fit to adopt this proposal.

Having just been retained, we are still investigating this matter. Our clients are reserving all of their rights in the event that Council elects to proceed with a permanent closure on the basis of short and misleading notice and in the absence of public disclosure about the engineering advice Administration has received.

Finally, given the impacts that the proposed work would have on our clients’ properties, this letter will serve as notice of our clients’ intention to claim damages for injurious affection, served upon you in accordance with section 22 of the *Expropriations Act*. Given that the scope of the works is not yet known, the extent of our clients’ damages are also not yet known, but the particulars of damages will include a complete loss of market value to the subject properties.

We have copied this letter to the clerk. If this letter needs to be addressed to any other person in order for you to accept it as adequate notice of injurious affection, we ask that you provide us with that person’s name and contact information and we will forward this letter accordingly.

Yours very truly,
DUNCAN, LINTON LLP



Peter A. Hertz
PAH/bb

cc: (ckclerk@chatham-kent.ca)