

COMMUNICATION 137016

Received from Stacey Blair, Clerk
Addressed to Committee of the Whole
Date March 10, 2026
Topic Line Fences Act and Private Boundary Disputes

SUMMARY

The purpose of this report is to recommend that the Town of Carleton Place exempt itself from the application of the Line Fences Act (the Act), in accordance with Subsections 98(1) and (2) of the *Municipal Act, 2001*, which states:

“98(1) A local municipality may provide that the Line Fences Act does not apply to all or any part of the municipality.

(2) Despite a by-law passed under subsection (1), section 20 of the Line Fences Act continues to apply throughout the municipality.”

Section 20 of the Act states as follows which does not apply to the Town:

Duties of owner of former railway land

20 (1) *Where land that was formerly used as part of a line of railway is conveyed in its entire width by the railway company to a person, the Crown in right of Ontario, a Crown agency or a municipality who is not the owner of abutting land, the responsibility for constructing, keeping up and repairing the fences that mark the lateral boundaries of the land lies with that person, the Crown in right of Ontario, the Crown agency or the municipality, respectively, if,*

(a) a farming business is carried out on the adjoining land; and
(b) the owner of the adjoining land upon which the farming business is carried out notifies the person, Crown in right of Ontario, Crown agency or municipality, as the case may be, that the owner desires that such person or entity construct, keep up and repair the fences that mark the lateral boundaries of the land. 2006, c. 32, Sched. D, s. 6 (1).

DISCUSSION

The original intent of the *Line Fences Act* (the Act) was to assist in settling disputes during early settlements in rural regions of the province and at that time, municipalities served as mediators. The Act was not intended for urban settlement areas where most fences are optional and do not manage livestock. As such, many urban municipalities across Ontario have opted out of the Act.

In the Town of Carleton Place, the Act has rarely been utilized. Since 2017, there has been one (1) enquiry under the Act. In the urban setting, the Act is often misused as a means of settling disputes between neighbours when one neighbour is desirous of building a fence and the other is not. Staff recommend that landowners address fence concerns between themselves and, if required, through the court system and that the Town not act as a mediator between the two parties.

RECOMMENDED MOTION

THAT Council pass a by-law to opt out of the provisions of the Line Fences Act.

ATTACHMENTS

- Line Fences Backgrounder
- Draft By-law to opt out of the Line Fences Act

LINE FENCES ACT BACKGROUNDER

The Line Fences arbitration procedure applies in two situations where the owners are unable to reach agreement:

1. Where no fence currently exists at the boundary between the two properties, and one owner wants a new fence to be constructed to mark the boundary; or
2. Where a line fence already exists, and one owner believes that it needs to be reconstructed or repaired.

Fence-viewers

In such cases, an owner can ask that a municipality assign “fence-viewers” to resolve the dispute and issue a decision, also known as an “award”.

A fence-viewer is:

- appointed by the municipality
- someone with broad knowledge of the community

Three (3) fence-viewers are required to be present at a viewing, and are only authorized to address the following issues:

- the apportionment of responsibility for the fencing work between the two adjoining owners; and/or
- the description of the fence that is to be constructed or reconstructed on the boundary line, including the materials to be used.

After the viewing, the fence-viewers issue an award and allocate the costs of the proceeding between the two owners.

When the Act Does Not Apply

The arbitration procedure is not applicable if one owner, on their own initiative, has constructed a new line fence or has reconstructed or repaired an entire existing line fence, and then wants to use the arbitration procedure to force the adjoining owner to pay part of the cost of the completed work.

The arbitration procedure only deals with disputes about fences. It does not determine the location of the boundary line between adjoining properties. Boundary line disputes must be resolved by the owners themselves. Municipalities and their fence-viewers have no jurisdiction to deal with boundary issues.

As many municipal staff members and fence-viewers are aware, property owners involved in a boundary dispute often approach the municipality in the hope that the matter can be resolved without the need for them to obtain legal advice and a survey. A municipal council has the authority to pass a by-law to exempt all or part of a municipality from the Act.

Line Fences Dispute Process

- Appointment of Fence Viewers

- Coordination of Fence Viewers and Property Owners for official viewing
- Fence Viewer compensation
- Dispute notice to parties
- Notification to Fence Viewers
- Determination of financial responsibilities (award)
- Possible notice of appeal regarding Fence-Viewers' award
- Affidavit of service of notice of appeal
- Appeal notice to parties
- Appeal notice to fence viewers
- Certificate of default (Work not Done)
- Certificate of default (payment not made)
- Treasurer's Notice of Amount Owed to Municipality by Defaulting Owner
- Determination with Directions
- Decision of Fence-Viewers Where No Award, Certificate, etc., is Made
- Agreement

BY-LAW NO. xx-2026

**BEING A BY-LAW TO OPT OUT OF THE PROVISIONS OF THE LINE FENCES ACT
SAVE FOR SECTION 20.**

WHEREAS Section 90 (1) and (2) of the *Municipal Act, 2001*, provides that a municipality may determine that the Line Fences Act, 2006 does not apply to all or any part of the Municipality;

NOW THEREFORE the Council of the Town of Carleton Place hereby enacts as follows:

1. The Corporation of the Town of Carleton Place hereby opts out of the provisions of the Line Fences Act, in accordance with Section 90 (1) and (2) of the Municipal Act, 2001; and
2. Where a property owner is desirous of erecting a boundary line fence they shall pay 100% of the cost of any work or erection, repair, replacement or maintenance which has been carried out, unless otherwise agreed upon with the adjoining property owner; and
3. A boundary fence shall be in compliance with the provisions of the Town's current Property Standards By-law with respect to the construction, reconstruction or repair and location of a fence, including but not limited to the type of material to be used, the height of the fence and setbacks as required.
4. This by-law shall take effect on the date of passage thereof.

**READ A FIRST TIME, SECOND TIME AND THIRD TIME AND FINALLY PASSED
THIS 24TH DAY OF MARCH, 2026.**

Toby Randell, Mayor

Stacey Blair, Clerk