



TOWNSHIP POLICY FOR LAND SEVERANCE WITH RESPECT TO THE DRAINAGE ACT

INTRODUCTION

A land severance is the authorized separation of a piece of land to form two or more new adjoining properties. Most rural municipalities have many municipal drains. Likewise, most rural properties are assessed into one or more of these drainage projects. When a municipality does maintenance and/or improvement, on one of these drainage projects, it must assess the costs fairly against all properties within the drainage area as defined in the appropriate by-law.

When a severance takes place on land that has a drainage assessment, problems can result mainly due to the new owner's unfamiliarity to his obligations under the Drainage Act. Two problems are of particular concern:

1. If there is drainage assessment against this land the assessment must be apportioned between the two new parcels.
2. If the municipal drain actually passes through the severed land, the new owner may have to allow a working space for machinery operation or spreading of excavated material in the event maintenance and/or improvement is required.

Failure to keep the drainage by-law up-to-date with respect to apportionment of assessments, or failure in keeping landowners advised of their obligations, can result in landowner disputes, extra costs and serious delays when maintenance and/or improvement is required.

APPORTIONMENT OF ASSESSMENT, THE DRAINAGE ACT, R.S.O. 1980

In accordance with the Drainage Act, R.S.O. 1980, Section 65, there are two options available to deal with the matter of apportioning an assessment.

1. Section 65(1): Council may appoint an Engineer to apportion the assessment currently showing in the Engineer's Report, among the parts into which it is divided.

This method normally takes longer and is more costly than method (2). It is more costly since Engineer's fees will be assessed against the parties involved in the severance. This method should be used when a number of severances take place at one time as is the case of a subdivision or when landowners cannot mutually agree on the apportionment of assessment.

2. Section 65(6): The owners of the subdivided land may enter into an agreement on the apportionment of the assessment currently showing in the Engineer's Report. This written agreement may be filed with the Clerk and subject to Council approval by Resolution.

This method is more desirable in most instances since it allows the landowner to mutually agree on apportionment of assessment. Costs are kept to a minimum and approval of apportionment can be done very quickly. Landowners should normally be

allowed to use this method, especially in cases where only one or two parcels are to be severed.

MUNICIPAL ACTION

In the pamphlet entitled "Land Severance ñ A Citizenís Guide", the Ministry of Municipal Affairs recognizes that individual municipalities may have specific policies and requirements as a condition for severance. The municipality should contact its governing body responsible for approval of severanceís and inform them that:

- a) If drainage assessment reapportionment is required, this must be done prior to receiving municipal approval. The landowners should contact the Drainage Superintendent or Clerk to discuss whether Section 65(1) or 65(6) of the Drainage Act is used. If 65(6) is used, the Drainage Superintendent will assist with the reapportionment. Attachment #1 is a sample agreement, which can be entered into.
- b) The parties involved in the severance should contact the municipal Drainage Superintendent or Clerk of the appropriate municipality to determine if other obligations under the Drainage Act, such as working space requirements, may affect their land.