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Master's Creek residents should have known about sidewalks: lawyer

By **DAN PELTON**

Legal counsel for the Town of Mono has submitted an opinion that residents of the Master's Creek subdivision ought to have known that sidewalks were part of the overall plan for the development.

Residents of the subdivision, situated north of Cardinal Woods and west of Highway 10, are objecting to plans to install sidewalks on their properties which they say would intrude on the estate lots they had purchased.

They also say they didn't know that sidewalks were planned for the subdivision.

The legal opinion, submitted by Jeffrey Wilker of Thomson Rogers in Toronto, said: "We understand that one of the arguments being made to Town Council is that the homeowner purchased the lot prior to the subdivision agreement being executed and therefore the homeowner did not have notice of this subdivision requirement. Legally this argument does not stand."

Planning Director Mark Early has argued that sidewalks had been in the development plans from the beginning in the subdivision.

Mr. Wilker said that even if the homeowner entered into an agreement of purchase and sale with the developer, Highcastle, prior to registration of the plan of subdivision, the homeowner could not have closed the transaction until after the plan of subdivision and the subdivision agreement were registered on title to the lot.

"The subdivision agreement," Mr. Wilker wrote, "clearly spells out the requirements for the installation of sidewalks."

He pointed to Section 72 of the agreement, which reads: "The Owner [Highcastle] shall construct sidewalks and driveway aprons in all locations and in accordance with the drawings. ... The driveway aprons shall be paved in accordance with town requirements, and the sidewalks constructed of such quality of concrete as may be required by the town in accordance with its

requirements.”

The Master’s Creek residents are concerned that the sidewalks would reduce the value of their properties and that the subdivision plan calls for, in the words of resident Ken Debruin, “sidewalks to nowhere.

“If there were sidewalks in Cardinal Woods that led to the park (at the intersection of Hockley Road and Highway 10), that would be different,” Mr. Debruin told a recent Mono public council meeting. “We could walk right through. But there aren’t, so what’s the point?”

(Although the first phase of Cardinal Woods has no internal sidewalks, they were required by the time the second phase, east of Highway 10, was constructed.)

The Thomson Rogers website describes Mr. Wilker’s practice as focusing on land use law.

“The provision of top-shelf legal guidance to his clients is a hallmark of his practice. Jeff acts on cutting edge matters and prides himself on his ability to “think outside of the box.” His practice “involves all aspects of municipal and planning law, including land use litigation, expropriation, environmental and constitutional matters. He appears before Municipal Councils, at provincial tribunals such as the Ontario Municipal Board, and in the Courts, on behalf of municipalities, public agencies, corporations and private individuals.

“He is the Town/Township solicitor for a number of municipalities.”

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