



Town of The Blue Mountains

32 Mill Street, Box 310
THORNBURY, ON N0H 2P0

<https://www.thebluemountains.ca>

OFFICE OF: Shawn Carey
Director of Operations

Email: [REDACTED]

Phone: [REDACTED]

Sent via E-mail

November 30, 2020

Bob Welling
100 McMullen Court
Thornbury, ON
N0H 2P0

Dear Bob,

This letter is a follow up to the discussions regarding the request for the Town to assume responsibility for the privately owned and operated drinking water system commonly known as Lora Bay Phase 1. The information presented below is based on a comprehensive file review and recent discussions with the regulatory authority in this matter being the Ministry of Environment, Conservation and Parks (MECP).

Grey Common Elements Condominium Corporation No. 63 has infrastructure within its common element providing drinking water to Common Elements Condominiums and in turn, individual unit owners. A Common Elements Condominium is defined as one or more properties composed of common elements only which are attached to individual units known as "Parcels of Tied Land" This water infrastructure is considered a "Non-Municipal Year Round Residential System" as defined in Ontario Regulation 170/03 under the *Safe Drinking Water Act* (SDWA).

Ontario Regulation 170/03 defines a non-municipal year-round residential system: as a system that is not owned by a municipality; is not a seasonal system; and, services a major residential development with more than five service connections.

Section 2(2) to 2(5) of Ontario Regulation 171/03 (enacted under the SDWA) provides definitions of words and expressions used in the Act and Ontario Regulation 170/03. Section 5(2) defines and prescribes the requirements of a "Non-municipal Year Round Residential System" which obtains all of its water from another regulated system that provides primary treatment and secondary disinfection.

As per the Condominium Declaration executed for Grey Common Element Condominium Corporation No. 63, the watermain has been designated as private and is located on private lands and as such the municipality has no ownership of the watermain. The Owner, in this case, the Condominium Association, is required to operate the system according to the provisions outlined in Ontario Regulation 170/03.

Section 1.8(b) of The Condominium Agreement executed for Grey Common Elements Condominium Corporation No. 63 states "the Corporation and all Owners acknowledge that all the roads, services, parking areas and open space areas (including all such landscaped areas) forming part of the Common Elements are not under the ownership of the Municipality". Further, Section 4.2 states "the Corporation shall maintain and repair the Common Elements at its own expense. The Corporation shall also maintain and repair all facilities (including without limitation, watermain, storm and sanitary sewers, streetlights)."

Generally speaking, if a property is owned by a single entity (e.g. condominium corporation) then all the waterlines on the property are plumbing as defined under the Building Code Act. If, however, it is fed by a private water system (e.g. municipal system), the water supply would be subject to Ontario Regulation 170/03 as a Non-Municipal Year Round Residential System as more than five private residences are being serviced.

Under Section 5 of Ontario Regulation 170/03 there is the ability for a non-municipal year round residential water system to be exempt from their requirements for sampling and testing if there is a written agreement with the Municipal System that provides the water. If there is no written agreement between the Condominium Association and the Town, the Owners of the non-municipal year round residential drinking water system are responsible for the operation and maintenance of the system which includes but is not limited to all required sampling and testing by a licensed operator. It is the expectation of the Town and a regulatory requirement of MECP, that the system will be operated in full compliance with O.Reg 170/03 to reduce potential risk to the Municipal system.

Section 5.16 of By-law 2008-02, Regulation of Water Supply in the Town of The Blue Mountains establishes that fire hydrants shall be maintained by the Town. Hydrants owned by any persons other than the Town shall be maintained by the Town, through a written agreement between the owner and the Town. The owner shall be responsible for reimbursing the Town, or persons authorized by the Town, for all costs incurred in maintaining the hydrant. The program ensures that fire hydrants are maintained in proper working order and also allows for the annual flushing of hydrant leads. Grey Common Elements Condominium Corporation No. 63 has acknowledged and signed an agreement with the Town for the maintenance of the private fire hydrants.

It is the Town's and the MECP's position that termination of water system ownership is at the property line and therefore, it is the responsibility of Grey Common Elements Condominium Corporation No. 63 to register its system with the MECP and comply with the requirements of O. Reg 170/03. The requirement to register a regulated drinking water system falls on the Owner under O.Reg 170/03, section 10.1. Town Staff are not in a position to assume

responsibility or liability for this system through the execution of a Section 5 agreement. Assumption would require additional operating and sampling costs including but not limited to the production of annual and summary reports, that have not been considered during the budgeting process. In addition, Staff are not in a position to work on private lands and have concerns with separation of services and lack of historical maintenance for works completed.

A Guide for Owners and Operators of Non-Municipal Year-Round Residential Drinking Water System is enclosed for your information. If you require assistance with registering your system, please reach out to the local MECP Office at 519-371-2901.

Sincerely,

A large black rectangular redaction box covering the signature area. A blue ink scribble is visible above the box.

Shawn Carey
Director of Operations

Enclosed: A Guide for Owners and Operators of Non-Municipal Year-Round Residential Drinking Water Systems

CC: Allison Kershaw, Manager of Water & Wastewater Services, Town of The Blue Mountains (via e-mail)

Al Petersen, Water Inspector, Ministry of the Environment, Conservation and Parks (via e-mail)

Will Thomson, Director of Legal Services, Town of the Blue Mountains (via e-mail)