

**From:** Darick Battaglia [<mailto:dbattaglia@dominionlending.ca>] **Sent:** Tuesday, September 03, 2013 3:41 PM **Cc:** 'Darick Battaglia' **Subject:** Plan 656 Woodland Beach ownership

Hello All,

This year brought us another beautiful summer at Woodland Beach and a final conclusion to the Court case involving the ownership issue at Plan 656.

You are receiving this email because your property fronts onto the Beach plan 656.

I was not successful in obtaining email addresses from the following owners and would appreciate that if you have one please forward to me for future communication purposes or forward this email to them and have them reply to me with their address:

2056 TBRS – Josephine Schywiola  
2058 TBRS – Robert and Sonia Eggett  
2062 TBRS – David and Jacqueline Bell  
2068 TBRS- Linda Marek  
2070 TBRS – Deborah Kyles  
2074 TBRS – Nerina Tallevi  
2076 TBRS – Ana Opresnik  
2078 TBRS – Robert Sleigh, Susan Ghulati

Below is a summarized diary of the Beach ownership on Plan 656 and the options available to you for its potential purchase.

The summary has been short formed from hundreds of pages of court documents. After you have read the document I would appreciate your feedback. I would like to schedule a meeting for us at some time in October to review further in person sometime during an evening the week of October 7<sup>th</sup>. If you could also let me know which evening works best for you that would be great.

## History:

In 2006, land owners at Woodland Beach, received a letter in the mail that pertained to a notification from the Township of Tiny. This notification was sent to inform us that as part of a new comprehensive rezoning of the Township, The beach at Plan 656 was being rezoned to a new Public designation. The notification allowed us to appeal this rezoning if we so wished. I appealed the rezoning based on the information that follows here.

Shortly after receiving the notice, I was informed by a neighbour, that the Township had been claiming this beach as being in public ownership when in fact it was still owned privately. I was then provided with a report prepared by a local surveyor that itemized the history of the beach. This report concluded that ownership still belonged to the original land developer, or his heir(s), and that the Township only had a right to two small portions on this beach plan located at the pathways across from Lot 22 and Block A. These two parcels were acquired by way of a quit claim(sale) provided to them in 1983 by the heirs of the Tripp family. At no time prior to this did the township ever own any portion of this beach.

The surveyors report further explained that in 2001, without public notice, the Township registered a deed naming themselves as both the buyer and seller of the entire beach known as Block B on Plan 656. Then in 2005 hired their own surveyor and registered a new reference plan of survey describing Block B as being all of the beach to the Water's edge. This deed and reference plan effectively gave the Town legal ownership of the beach without any notification to the public or to the rightful owner(s). You may ask how yourself how this is possible. In this case it was simple. With the help of their lawyer, they registered a deed on title in hopes that the true owners of the property would not come forward.

The beach in question stretches from the old boat launch (Lawson Road) south and in front of 29 cottage lots measuring some 1500 ft going towards Wasaga Beach.

I was successful in my appeal to the Ontario Municipal Board.

In 2006 I was also successful, in locating and contacting the rightful owners heir to the beach and provided her with the surveyors report that indicated that she was the rightful owner. Because she lived in Florida I volunteered

that I could act as her agent where deemed necessary.

The surveyor report also stated that the heirs Father, some 5 years after the registering of the original plan of subdivision in 1921, began to sell beachfront lots to those respective lot owners that lay adjacent to the beach. Two of the lots were sold into private ownership in 1925 and are known as the beach lots at lot 12 and lot 13. They remain that way today. The beach at these two lots have been recently landscaped with rock retaining walls and the moving of sand by a landscape machine. You will also see two Sea-doo's on trailers located on the beach at lot 12.

After receiving the report, the heir of the beach, took approximately 2 years to satisfy herself that the report was correct.

Once the heir received this information the heir had options available to her

- 1) Do nothing
- 2) Sell the beach to an interested party or parties – like her father did in 1925
- 3) Keep the beach for future consideration

In order to accomplish 2) and 3) the title to the land would have to be released by the Township and be given back to her.

At 92 years of age and in the early part of 2008, The heir and her family offered the property to me to purchase. The heir was ill and the family was anxious to put an end in this chapter of the heirs life and help with costs associated with her health care. We both agreed on a price and a sale date was set to close in the Spring of 2008.

Before my purchase agreement could close we needed the Township to first remove its title.

Upon our request the Township removed its title promptly with no opposition. Shortly thereafter, in May of 2008, I was able to purchase the land from the heir. One month later the heir past away.

Some two years later the Township obtained information that led them to believe that they erred in releasing the beach back to the heir. Their “new” information led them to believe that the south half of the beach belonged to the Tripp family. So In 2010 the Township, without public notice, negotiated a

new quit claim(purchase) from the Tripp's to take ownership of the South half of the beach. But this sale to the Township could only happen if the town was successful in suing me to regain its ownership on behalf of the Tripp's.

So to recap; the Township took lands that belonged to private parties- 2001 , without public notice and in hopes that no one would notice. Then when caught, transferred it all back to the private party(the heir)-2008 , then 2 years later realized they gave back too much of the land ( which meant they had taken too much to begin with) to the (heir) and negotiated to purchase the wrongfully transferred lands from another private party (the Tripp's) which allowed them to sue the first party in order to get ownership of the lands - 2010. Keep in mind that the Township never owned the beach to begin with. CONFUSING BUT TRUE.

The appeal court agreed with the Townships new information and subsequently the south half of the beach transferred back to the Tripp family which then they sold to the Township this year.

The Courts ruled that the north half , from lot 1 to 11 and lot 14 on the beach and a 20 ft. strip of land known as Block B in front of the south half of the beach still belongs to me. I, like the owners at lot 12 and Lot 13 have landscaped the beach that I own in front of my cottage with a rock retaining wall. I have also embarked on a renovation of our cottage buildings. All of this work has been done with permits and in accordance with all authorities.

The beach lots at lot 12 and Lot 13 are in separate private ownership. The 20 ft. strip of land (Block B) between the beach lot at lot 12 and lot 13 still belongs to me.

For liability reasons I am informing you of the following:

If you are a one of the residents that owns property on Plan 656 you have a deed that gives you a Right of way over Block B (20 ft wide) along the entire beach to access Georgian Bay. You do not have ownership of this right of way or the beach on the other side of the Right of way to the water's edge unless you are on lot 12 or lot 13. You are not to alter, or encroach on it with

improvements in any way. You are not to landscape or groom the beach in any way without permission. The original deed reads, and the court has provided an opinion, that you have a Right of way over block B (20 ft. wide strip of land) that gives you permission to cross over to access Georgian Bay . If you have encroachments you may be asked to remove them at some time in the future at your expense. The taxes and insurance are being paid by myself for these lands.

Where it pertains to the south half ..that being from lots 15 to 29. The Township owns the beach there but I still own the 20 ft. strip of land along the entire south half that borders the beachfront lots with the exception of the portion in front of Lot 22 and Block A at the beach paths. This 20 ft. strip is also not permitted to be altered or encroached upon. Only those residents that own properties on plan 656 are permitted to access the right of way to gain use of the Township owned beach on the south half. Those lot owners that front onto the “now” owned Township lands may be concerned as to why they were not consulted as to why the Township only now negotiated to buy these lands and you were not given the same option.

You might all also have an option to appeal your tax assessment based on the reduced property values you may now be facing as a result of not having beach rights you thought you did when you bought or when your family purchased the land.

I am now consulting with lawyers to file a statement of claim for damages for the loss of the property that I purchased and no longer own (that being the south part of the beach).

If you are a beach front owner from lot 1 to 11 and lot 14 or If you are an owner of lot 12, 13, and 15 to 29 fronting on the 20 ft strip of land in front of your cottage please feel free to contact me to negotiate a sale of this land. See purchase details below.

It should be noted that it may also be possible to sell this land to other parties not excluding the township, the community of Woodland Beach or to any other interested party.

My first intention would be to offer the lands for sale to the residents of Woodland Beach that front onto this property. It was not my intention to

have purchased the property and continue to pay the taxes and the insurance for the public. I will be looking for a fast resolution either way.

Purchase option:

Lots 5 to 11 and lot 14

What you would be buying: pros;

The right to use your portion of the beach and no one else. Dogs, no dogs, sun lounging, volleyball, launching boat, sea doo etc. it is yours to do as you please. Note: I will not be transferring ownership that will allow fences to the waters edge or the planting of trees that would block the view of a neighbour. As a group I am hoping we can come up with our own preferable ways to enjoy the lands.

Alcohol will be permitted on your own beach, beach fire pits, cabana huts etc. The right to landscape your beach – in accordance with authorities, See my lot 3, or lot 12 and Lot 13 for examples.

As a group of private owners we can pool funds to beautify the beach to keep the costs to a bare minimum.

As a public beach none of the above is possible. You will be forced to live with the Township by-laws that govern this beach. Garbage cans will be placed on the beach in front of your property as they have in the past, picnic tables may also appear. Were you aware that Currently a by-law exists that does not allow a sail boat or hobie cat to be parked on a public beach. It does not permit alcohol on the beach.

As a public beach we run the risk that in the future the parking will be increased in the public park intensifying the use beach.

The price for the beach is \$1000 per front foot, which includes Block B and the Beach in front to the water's edge, plus any fees associated. (ie. Legal fees).

The Beachfront owner can purchase as much frontage as they wish and will not be limited to the beach in front of their cottage unless all owners wish to participate.

I will supply a drafted purchase agreement to those that are interested.  
The Closing Date will be November 30, 2013.

It would be possible to purchase the land in two payments over a 5-year period. Half at the closing date in November 2013 and the other half in November of 2018. The price would be adjusted to \$1,200 per front foot in this scenario.

A financing option exists. \$0 down. The lot frontage price is adjusted to \$1,300 per front foot. Payment based on an annual interest only payment of 5%. (ie. \$50,000 – equals a minimum \$2,500 annual payment made at the beginning of each year). With the ability to pay in full or portions thereof once annually with no penalty. 5 year term.

The title of the beach can be sold by way of a land corporation.

- 1) A land corporation is formed. Each owner wishing to purchase will own the amount of shares of the corporation equal to the portion of frontage of land they are purchasing. By laws will dictate which portion of land belongs to who and their individual rights equal to those as if they had deeded ownership. The owners could decide as to whether they would then like to apply for individual severances which could then be done in one large application.

Lots 12, 13, 15 to 29 excluding lot 22 and Block A.

They can purchase the 20 ft. wide Block B In front of their cottage property for \$100 per front foot. The Beach front owner can purchase as much frontage as they wish and will not be limited to the beach in front of their cottage unless all owners wish to participate than that portion in front of their lot will be allocated to them to purchase.

The ownership title strategy will be the same as above.

Please contact me if you are interested.

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