

Department of Community & Development Services
1593 Four Mile Creek Rd. P.O. Box 100,
Virgil, ON
L0S 1T0

March 28, 2019

To whom it may concern:

We have a letter, dated March 26, 2019 from W.R. Perrin in which he quotes a section 13 (l) of a Bylaw which denotes a process by which we may appeal to a committee if an inspector refuses to issue a Permit, such appeal to be received by the Town on or before April 2, whence this letter.

Town Bylaw No. 5106-18 states in Part IV Permit Exemptions-4: The Destruction or Injury of a Regulated Tree is exempt from the requirement for a Permit if the Regulated Tree is: (d) a tree certified by a building inspector or engineer as causing structural damage to a drain, load bearing structure or roof structure.

Clifford Stanley James is a Registered Professional Engineer, 21718010 with Professional Engineers Ontario and is a Bachelor of Applied Sciences in Civil Engineering from the University of Toronto Faculty of Applied Science & Engineering. He certifies that the evident cause of the leakage of water into the basement of the house at 30 Colonel Butler Crescent from a gap or fissure in the joint of the foundation wall and its footing, both poured concrete, located from 5 to 7 feet from the basement SW corner, is the intrusion and expansion into that joint by the roots of a large Locust tree located on the south side of the house.

The owners/occupants of this house, Ursula and Clifford James, began to notice water enter their basement both in the spring and autumn of 2015, and has done so in succeeding years, in more or less, sometimes considerable quantity, damaging house contents and requiring removal by several means, including a vacuum pump. Water does not enter this basement from any other part of this house foundation. Leakage was obviated in 2018 by unusual reconfiguration of the front downspout but can continue to be restrained only by the frequent removal of small leaves and stems, from the screens of the front eavestrough, since the droppings from this tree continue throughout the growing season. Removal is time consuming and physically demanding which the occupants, both nonemgnerians, are no longer able to do or to afford the help needed to do it. They want this Locust tree removed as soon as possible, while the ground is frozen.

Clifford James as co-owner of this property, has experienced this frequent entry of water into this basement and has incurred the expense necessary to remove it, including purchase of a vacuum pump. The Professional Engineers Act of Ontario permits him to do engineering work for his own property which does not require a Certificate of Authorization from P.E.O.

We ask that, whoever in this Town has the authority to do so, give us written acknowledgement that we may proceed to have the Locust tree removed forthwith without hinderance.

Yours sincerely,

Ursula and Clifford James, P.Eng.

Ursula James.

P.S. Our copy of Bylaw 5106-18 clause 13 states, in Part IX "Any person who directly or indirectly contravenes, or who causes or permits a contravention of any provision of this Bylaw, an order issued under this Bylaw or a condition of a Permit, is guilty of an offence."

PPS. The prevailing SW winds blow the dropping from this Locust tree into our swimming pool, causing contamination, for which time and/or expense is necessary to remove.

PPPS. there are over 30 trees on our property, none of which we want removed, except the Locust.

SULLIVAN | MAHONEY
LAWYERS

April 23, 2019

Reply to St. Catharines Office
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*Certified Specialist (Municipal Law – Local
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Delivered via Email Transmission

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1593 Four Mile Creek Road
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Virgil, ON L0S 1T0

Attention: Mr. Peter Todd, Clerk

Dear Mr. Todd:

**RE: James re Request to destroy a Locust Tree located at 30 Colonel Butler Cr.
Our File No. 120651**

This letter follows our telephone conversation of Thursday, April 18, 2019.

The purpose of my call and of this letter is to advise you that we have been retained to act on behalf of Mr. Clifford James and Mrs. Ursula James, owners of the property at 30 Colonel Butler Crescent in the Town of Niagara-on-the-Lake, with request to destroy a locust tree located in the front yard at that address.

I understand that you are processing Mr. James' letter of March 28, 2019, filed on April 2, 2019 as an appeal and that a hearing will be scheduled some time in May. Would you please be kind enough to provide notice both to Mr. and Mrs. James and to this writer of that appeal date.

Thank you for your cooperation and assistance in this matter.

Yours very truly,

SULLIVAN, MAHONEY LLP
Per:



Thomas A. Richardson, C.S.

c.c. Mr. Warwick Perrin
Client

Client Committed. Community Minded.

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