

THE CORPORATION OF THE TOWNSHIP OF TEMAGAMI

BY-LAW NO. 97-408

BEING A BY-LAW TO RESCIND BY-LAWS NUMBER 91-274 AND 91-275

WHEREAS Municipal Corporations have the authority to rescind By-Laws passed by them;

AND WHEREAS By-Law No. 91-274 was passed on the 22nd day of July, 1991, for the purpose of closing and stopping up part of 4th Avenue in (he Township of Temagami;

AND WHEREAS the Consent of the Minister of Transportation to the Road Closing effected by By-Law No. 91-274 was obtained on October 9, 1991, pursuant to Section 24 (3) of the Public Transportation and Highway Improvement Act;

AND WHEREAS pursuant to Section 297 (11) of the Municipal Act a By-Law closing a road does not take effect until it has been registered in the Land Registry Office of the Land Titles Division in which the land is situate;

AND WHEREAS By-Law No. 91-275 has never been registered in the Land Registry Office of the Land Titles Division in which the Land is situate and therefor has never taken effect;

AND WHEREAS it is not the intention of Council for the Corporation of the Township of Temagami to ever close up that portion of 4th Avenue as set out in By-Law No. 91-274;

AND WHEREAS By-Law 91-275 was passed on the 8th day of August, 1991, for the purpose of establishing a new road allowance;

AND WHEREAS the Consent of the Minister of Transportation to the road opening effected by By-Law 91-275 was obtained on October 9th, 1991, pursuant to Sub-Section 24 (3) of the Public Transportation and Highway Improvement Act;

AND WHEREAS Paragraph 1 of By-Law No. 91-275 provides that the new road allowance to be established by By-Law No. 91-275 was not to be established until the passing of By-Law No. 91-274;

AND WHEREAS By-Law No. 91-274 has never taken effect for the reason set out above;

AND WHEREAS the road to be established by By-Law 91-275 has never been constructed and Council for the Corporation of the Township of Temagami has no intention of ever doing so;

AND WHEREAS the Corporation of the Township of Temagami has obtained a legal opinion from their legal Counsel that By-Law No. 91-275 would be found void for uncertainty because it does not accurately define the area of land to which the By-Law applies and in this regard Council for the Corporation of the Township of Temagami has been referred to the case of Wannamaker v. Green (1886), 10 O.R. 457 (C.A.);

NOW THEREFORE the Council of the Township of Temagami enacts as follows:

- (1) that By-Laws No. 91-274 and 91-275 are hereby rescinded.

Read a first, second and finally passed upon third reading thereof this 7 day of th

October •1997.



Reeve



Clerk