

Memorandum

To: Jennifer Lawrie
From: Paula Lombardi
Date: July 21, 2026
Subject: Summary – Legal Opinion
Bluewater Trailer Park

We have set out below our summary of the legal opinion relating to the Bluewater Trailer Park and its use. Please give me a call if you would like to discuss or have any questions.

Summary

The Municipality of Kincardine (the “**Municipality**”) was granted the Bluewater Trailer Park lands by the then owner of the property in the late 1880s. The grant was given subject to the Municipality using the lands for the purposes of a “*public park, garden or walkway*.” The Bluewater Trailer Park lands were intended to be held in trust by the Municipality for the specified purpose of a public park, garden or walkway.

The Bluewater Trailer Park lands were conveyed to the Municipality in 1885. The requirement of the conveyance as written in the instrument indicates a dedication of lands for public purpose (public park, walkway, garden), rather than a transfer subject to a restrictive covenant or purpose. This means that the lands are not subject to the forty-year expiry period for restrictive covenants. The intended uses and requirements of the dedication must continue for the conveyance to the Municipality to continue to remain valid.

In circumstances where lands are dedicated to the public for a particular purpose, the lands must be used for that particular purpose. In this case the particular purpose set out in the dedication is for a “*public park, garden, walkway*.” The Municipality would be in breach of the dedication to continue to hold the lands and utilize them for any different use.¹ In other words the only uses permitted on the Bluewater Trailer Park lands for the dedication to remain valid is for a public park, garden or walkway.

A public park as defined in the Municipality’s current Zoning By-law and does not include a trailer park, mobile home park or campground. This indicates the Municipality’s intention that a trailer park / mobile home park is not considered to be the same use as a public

¹ See Peck and The Town of Galt (1881), 46 U.C.Q.B. 211

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park². Therefore, the trailer park use is not consistent with the original grant of the land to the Municipality for a public park, garden, or walkway³.

To retain the dedication the Municipality is required to utilize the lands for the purposes as set out in the grant being a public park, garden or walkway. Failure to maintain the dedication as originally set out at the time of the transfer can result in damages against the Municipality and / or a strong possibility of recession, meaning that the property would revert to the Donor's estate.

² 'Public Park' means an area of land which is owned by a public agency, and which may include therein one or more athletic fields, field houses, bleachers, wading pools, bandstands, outdoor ice skating rinks, tennis, or badminton courts, bowling greens, fairgrounds, picnic area, historic site, interpretive centre, maintenance buildings or other such similar uses.

³ The exception being again is if it can be demonstrated that the trailer park specifically existed at the time of the transfer and was agreed to by the grantor.