

Staff Report

Council Meeting Date: June 23, 2025

Subject: CLKS-2025-23 – Update on the Line Fences Act

Report from: Christine Fraser-McDonald, Clerk

Attachments:

Recommendation

Be It Resolved that the Council hereby receives Report CLKS-2025-23 – Update on the [Line Fences Act](#);

And further that Council instructs staff to prepare a by-law for the non-application of the Line Fences Act in the Municipality of Arran-Elderslie.

Background

During the review of the Line Fences Act, staff identified provisions within both the Line Fences Act and the Municipal Act, 2001 that allow municipalities to opt out of the Line Fences Act, referred to as the *non-application of the Act*.

Fence-viewers were first referenced in a legislative act of the Province of Upper Canada in 1793, and Ontario's first fencing legislation was passed in 1834. The current Line Fences Act can be traced back to that statute. Historically, fencing laws emerged from the need to resolve disputes in rural settlements, with municipalities serving as mediators in such cases.

Analysis

Opting out of the Act:

The Line Fences Act assumes that both property owners benefit from a fence marking their shared boundary. It establishes a framework for resolving disputes between landowners regarding the cost, maintenance, or repair of fences when an agreement cannot be reached independently.

However, the Act is not an efficient mechanism for addressing boundary fence disputes. It is highly complex, as evidenced by a 65-page guide maintained by the provincial government. Recognizing this, *Subsection 98 of the Municipal Act, 2001* allows municipalities to opt out of the Line Fences Act through a by-law, while ensuring that Section 20—which pertains to former railway lands—remains in effect.

Unless a municipality formally exempts itself, the Line Fences Act continues to apply. The Act is only relevant in two scenarios where neighboring landowners fail to reach an agreement:

- When no fence currently exists at the boundary, and one owner seeks to construct a new fence.
- When a fence already exists, but one owner believes it requires reconstruction or repair.

The Act does not determine the location of property boundaries—such disputes must be resolved by landowners themselves. Municipalities and fence-viewers do not have jurisdiction over boundary issues.

Three fence-viewers are required to be present at a viewing, and they are only authorized to address one or both of the following issues:

- the apportionment of responsibility for the fencing work between the two adjoining owners
- the description of the fence that is to be constructed or reconstructed on the boundary line, including the materials to be used

Practical Considerations

Over the past seven years, there have been no requests for fence-viewing under the Line Fences Act. As a result, municipal fence-viewers lack practical experience in handling such cases.

Many inquiries received by the municipality involve property line disputes, which fall outside the scope of the Line Fences Act. In such instances, landowners often seek municipal intervention to avoid legal costs associated with surveying and legal consultation.

If Council adopts a by-law for the non-application of the Line Fences Act, property owners would be responsible for constructing fences on their own property, at their own expense. If two landowners choose to share costs, it is recommended that they enter into a formal written agreement detailing location, cost-sharing, and fence specifications. Should a dispute arise, resolution would need to be pursued through the courts.

If Council opts to proceed with the Non-Application of the Line Fences Act By-law, staff will prepare the by-law for consideration at the next Council meeting.

Link to Strategic/Master Plan

6.6 Modernizing Services

Financial Impacts/Source of Funding/Link to Procurement Policy

While there are no financial impacts at this time, it is important to note that fence viewers are compensated at a rate of \$87.55 per visit, plus mileage.

Approved by: Emily Dance, Chief Administrative Officer