

Madelaine Thurston
E-mail: mthurston@kellysantini.com

February 13, 2026

Committee of Adjustments
101 Centrepoint Drive
Ottawa, ON K2G 5K7

Committee of Adjustment
Received | Reçu le

2026-02-17

City of Ottawa | Ville d'Ottawa
Comité de dérogation

Re: Request for Validation Certificate under Section 57 of the Planning Act
Property: 106-114 Theberge Pvt (even numbers), 101-109 Theberge Pvt (odd numbers), and 19 Withrow Avenue, Ottawa, ON (the “Properties”)
Legal Description: Lots 1-10, Plan 4M1706 and Parts 4 and 8 on Plan 4R-32224
Instrument: Easement registered as OC2570228 dated January 19, 2023.

Dear Sir/Madam,

We act for Theberge Development Land Holdings Inc., who is the registered owner (or previous registered owner/developer) of the Properties. We are writing to request the issuance of a validation certificate pursuant to section 57 of the Planning Act in respect of an easement registered on title as Instrument No. OC2570228 (the “Easement”).

Background

The Easement was registered on January 23, 2023, in connection with the development of the Property. In accordance with Schedule H of Subdivision Agreement registered on title as OC255064), there is a requirement to register easements for drainage purposes, as well as access easement within the subdivision. These easements are easements amongst the owners of the 10 lots on Theberge Pvt, as well as the vacant lot at 19 Withrow Avenue. Of the 11 lots, 5 are still owned by Theberge Development Land Holdings Inc. and the others are owned by third parties. At the time of registration, a Part Lot Control Exemption By-law had not yet been enacted for the lands. A PLC exemption by-law has since been passed and registered on title as OC2825135 on August 29, 2025, which includes the subject lands and would have permitted the Easement had it been in force at the time of registration.

The premature registration of the Easement was a timing and procedural error. The Easement was always intended to be ancillary to the planned development of the Property and was not intended to create, nor does it create, any independent lot, parcel, or conveyable interest in land.

Planning Analysis

The Easement:

- Is ancillary and appurtenant to the development of the Property;
- Does not create a separate lot or convey a freestanding interest in land;
- Does not interfere with orderly development or frustrate any planning objective;
- Is consistent with the intended use and development framework for the lands;

- Would have been permitted under the subsequently enacted PLC exemption by-law had timing been aligned.

There has been no substantive severance of land, and the registration of the Easement does not offend the intent or purpose of section 50 of the Planning Act. The issue is limited to the timing of registration relative to the enactment of the PLC exemption by-law.

Request

In these circumstances, we respectfully request that the municipality issue a certificate of validation pursuant to section 57 of the Planning Act, confirming that the Easement does not contravene the Planning Act and is valid for Planning Act purposes.

Issuance of the certificate would appropriately address a technical defect and reflect the fact that the Easement is consistent with the municipality's planning framework and intentions for the Property.

Enclosures

We have enclosed the following for your review:

- Consent application form, including list of properties
- Copy of registered Easement
- Copy of the registered Part Lot Control Exemption By-law
- Reference plans
- Up to date parcel abstract (showing deleted items)
- A sketch of the subject property and abutting lands with ownership labelled
- Any registered documents from the time the original contravention took place
- Copies of outstanding encumbrances
- The fee payable to City of Ottawa.

We would be pleased to discuss this request or provide any further information that may assist in your review.

Thank you for your consideration.

Yours very truly,

KELLY SANTINI LLP

Per:



Madelaine Thurston

MT