

**BURKE, MACDONALD & LUCZAK
BARRISTERS & SOLICITORS***

Telephone: (902) 634-8354
Facsimile: (902) 634-4226

PATRICK A. BURKE, Q.C.
PIOTR (PETER) LUCZAK, BA, LLB.
DAVID K. MACDONALD, BSc., LLB., (Counsel - Retired)

Wolff House
P.O. Box 549
Lunenburg, Nova Scotia
B0J 2C0

*A Law Firm operated by Burke & Macdonald Inc.

November 20, 2013

VIA SURE COURIER

Mr. Gordon Hebb, Q.C.
Chief Legislative Counsel
Office of the Legislative Counsel
802-1809 Barrington Street
P.O. Box 1116
Halifax, N.S., B3J 2X1

**COPY FOR YOUR
INFORMATION**

Dear Mr. Hebb:

Further to my conversation with Karen Kinley of your office on November 12, 2013, I am acting for the Town of Lunenburg. The Town is seeking to have private legislation passed to address Common lands within the Town. I have obtained the consent of Suzanne Lohnes-Croft, MLA for Lunenburg, to sponsor the Bill.

The facts are essentially as follows:

1. There are certain lands within the Town of Lunenburg which are Common Lands.
2. The King made a Crown Grant of lands in the "Township" of Lunenburg. (Although there is some confusion as to the bounds of the Township, essentially it consists of the lands in between the LaHave River and the Martin's River from the County line to the end of Stonehurst.) The Grant contained approximately 2000 acres. I am enclosing a rough transcript of the Crown Grant of Common Lands in 1785. It describes, among other things, 2000 acres exclusive of the Town plot of Lunenburg (which would be the original plot from Kaulback Street to Kempt Street), the Garden Lots, School and Glebe lands, fish lots and lands granted to Creighton/Jessen/Cunningham/Mauger et al.
3. For your information, see Plan #277 from the Registry of Deeds enclosed which shows the Common Lands.
4. Also, for your reference, is a copy of a Plan prepared by Charles Morris (undated and without a source) which shows the Town plot and burial ground which is bounded Westerly by

Common.

5. See also the Crown Lands Grant Index Sheet, which shows the general location of the Common Lands surrounding the Town plot of Lunenburg.
6. Based on a general search by a local title searcher, it would appear that there are still Common Lands within the boundaries of the Town of Lunenburg which have not been conveyed away.
7. Subsequent Statutes addressed various issues in relation to the Common Lands. I am enclosing some of these Statutes which I feel are pertinent to the issue being addressed by the Town:
 - a. Chapter 55 of the Acts of 1862;
 - b. Chapter 81 of the Acts of 1887 (which authorized the lease of common lands for up to 5 years);
 - c. Chapter 72 of the Acts of 1897, by which the Common Lands within the Town of Lunenburg were vested in the Town and the Town could rent, lease or sell any portion. (It did not address whether it was subject to the restriction in the 1887 Statute.)
 - d. Chapter 77 of the Acts of 1951 which stated that the Common Lands were vested in the Town for the purpose of the trust set forth in the Grant as remodelled and enlarged by Chapter 55 of the Acts of 1862.

The Town of Lunenburg was incorporated in or about 1880.

The Town has not historically differentiated between regular Town-owned lands and Town-owned Common Lands. (It was not apparent until I recently addressed this issue, that it was even a concern.) Furthermore, the Town does not accurately know the boundaries of the Common Lands within the Town.

The purpose of the legislation would be to ensure that the lands are vested in the Town of Lunenburg free of any trust or any other restrictions contained in either the Grant or subsequent legislation addressing the Common Lands, so that the net effect will be that the Common Lands essentially become the same as other Town owned lands. (Town owned lands are, of course, subject to the provisions and restrictions contained in the *Municipal Government Act*, including, without restricting the generality of the foregoing, Section 50 and 51 thereof.)

We would want to ensure that all deeds, leases, conveyances, easements and other documents affecting title of the Common Lands executed by the Town would be declared to be legal, valid and

effectual according to their tenor.

I understand that your office would draft the Bill.

I would appreciate the opportunity to discuss this matter with you at your convenience.

I remain,

Yours very truly,

BURKE, MACDONALD & LUCZAK

Patrick A. Burke, Q.C.

E-mail: burkelaw@wolffhaus.com

PAB/sc

Enc.

Cc Bea Renton (Town Manager/Clerk)

Cc Suzanne Lohnes-Croft, MLA