
Russell, Christie, LLP

Barristers & Solicitors

W.D. (Rusty) Russell, Q.C., (1925-2019)
Douglas S. Christie, B.A., LL.B.
William S. Koughan, LL.B.
Edward B. Veldboom, MSc. Pl. LL.B.

Michael F. Sirdevan, B.A. (Hons), LL.B.
Jennifer E. Biggar, B.A., (Hons), J.D.
James R. Morse, B.A., LL.B.

Please reply to:
Edward B. Veldboom (Ext. 237)
Email: eveldboom@russellchristie.com

July 17, 2020

Dan Best, CAO
The Corporation of the Municipality of South Huron
322 Main Street South
P.O. Box 759
Exeter, ON N0M 1S6
via email to cao@southhuron.ca

Dear Mr. Best,

Re: Kirkton-Woodham Pool Committee

Further to our telephone conversation of yesterday, we understand that the Municipality requires our opinion concerning the authority of the Kirkton-Woodham Pool Committee. Specifically, it requires our opinion as to what role the Committee can play in the decision as to whether or not to open the pool for use during the state of emergency.

We have reviewed the documents that were provided which include among others:

- The 2013 Joint Use Agreement (Pool)
- The 2013 Joint Use Agreement (Community Centre)
- Assorted Title Documents including the Parcel Register and Deeds related to the Pool/Community Centre Property
- Minutes of the Pool Committee Meeting of July 14, 2015;
- Terms of Reference.

Based upon a cursory review of the title documents, the property is jointly owned by the Municipality of South Huron and the Township of Perth South. Immediately, one could conclude that any decisions regarding the use and operations on that property would be subject to the joint approval of the two municipal Councils, subject to any other agreements concerning the joint ownership.

At this juncture, you have simply requested our comments concerning the Pool Committee. As noted in our initial conversation, it seems that there are a number of issues regarding the joint ownership that are of concern and require attention. Those will be the subject of further discussions.

The 2013 Joint Use Agreement concerning the pool is odd to say the least. The Pool Committee appears to be a “party” to the agreement. In order to be a party to an agreement, the entity must have some legal status (i.e. it must be a person or a corporation of some sort). Unless the Committee was established through some other means, it is unclear how or why the Committee would be a signatory or party to the agreement.

The agreement itself seems to “create” the Committee, however the language concerning the Committee’s establishment is not very definitive. That said, in section 3.1, the intention to create and utilize a committee to deal with administrative matters is clear.

In our opinion, the Committee is simply an advisory committee that reports to both the Council of the Municipality of South Huron and the Council of the Township of Perth South. The Pool Committee would have no final decision-making authority and, instead, would provide recommendations to the Councils.

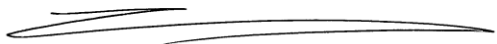
Based upon the Minutes of the July 14th, 2015 Pool Committee meeting, it appears that the Committee was recommending approval of “terms of reference” concerning its activities. Although the minutes of that meeting were “received” by both Municipalities, there was no express approval of the terms of reference by either municipality. Furthermore, in our opinion, in order to properly implement the terms of reference (even if one were to equate receipt of the minutes with approval), the terms of reference should have been added to the 2013 Agreement by way of an amending agreement (as required in section 9.4 of the 2013 Agreement).

Summary

The decision as to whether the pool will be open for use this summer is solely a matter to be decided upon by the Councils of the Municipalities. The Pool Committee’s involvement is limited to making a recommendation.

We trust our comments are of assistance and will await further direction concerning our review of the joint ownership issues.

Sincerely,



Edward B. Veldboom
(electronically signed)