

The Corporation of the  
**Municipality of Neebing**

AGENDA for Special Meeting of Neebing Council, Sitting as Committee of the Whole  
Wednesday, April 16, 2025 at 5:30 p.m.

At the Municipal Office or join from your computer or mobile device:

[Click here to join the meeting](#)

or call-in (audio only): **1-647-794-5609**, Conference ID **877 345 76**

**1. Preliminary Matters**

- (a) Call to Order
- (b) Attendance
- (c) Request/Receive Declarations of Pecuniary Interests  
under the Municipal Conflict of Interest Act (if any)

**2. Public Meeting Under Section 57 of the Planning Act: Request for Validation Order**

- 2.1 Application for Validation Order 1-19
- 2.2 Report from Administration Regarding Administration's Recommendations  
relating to a request for a Validation Order 20-31  
(Recommendation to Recommend that Council pass the Validation Order)
- 2.3 Receive Comments from Interested Members of the Public -
- 2.4 Consider Resolution to Make Recommendations to Council -

**3. Adjourn the Meeting**



1121 BARTON STREET  
THUNDER BAY ON P7B 5N3

P | (807) 623-2500  
F | (807) 622-7808  
E | info@busetlaw.com

March 25<sup>th</sup>, 2025

*Hand delivered*

Municipality of Neebing  
Attn: Erika Kromm, Clerk  
4766 Highway 61  
Neebing, ON P7L 0B5

Dear Ms. Kromm:

**RE: Application for Validation Certificate - Albert Kapush Contracting Ltd.  
K16 NEAR STURGEON BAY BLAKE; PT 66 FT RDAL BLAKE PT 2 5511303;  
NEEBING, being all of PIN 62273-0463 (R) (the "Property")  
Our file no. 23282-5**

We are the lawyers for Albert Kapush Contracting (the "Applicant") in respect of the above noted matter and are requesting the issuance of a Validation Certificate from the Council of the Municipality of Neebing under section 57 of the Planning Act (the "Act") relative to title of the Property.

#### **Overview**

Title to the Property is in the Registry System and has never been converted to Land Titles. The Applicant is seeking to convert the Property from the Registry to Land Titles. In order to do so, a title search was required to be undertaken. After reviewing the title search, it was discovered that the Property was not a whole lot in a registered plan of subdivision and was transferred to the Applicant in 1977 without consent (the "Transfer"). Therefore, the Transfer contravened section 50 of the Act, and a Validation Certificate is required to rectify title to the Property to allow the Property to be converted from the Registry System to Land Titles.

Section 50(3) of the Act prohibits the transfer of property which is not a whole lot on a registered plan of subdivision and prohibits a transfer where the transferor retains title to abutting lands without consent. Section 57 of the Act permits a council authorized to give a consent under section 53 of the Act to issue a certificate of validation which has the effect of rectifying a past contravention of the Act.

Enclosed you will find the Application for a Validation Certificate along with Schedule "A", associated appendices and the required fee. We trust you find the foregoing satisfactory and if you have any questions, please do not hesitate to contact the undersigned.

» PAGE 2

Regards,

**BUSET LLP**

Per:

A handwritten signature in black ink, appearing to read 'J. Matthew Pascuzzo', written over the printed name.

**J. MATTHEW PASCUZZO**

Encl.

<b>Municipality of Neebing</b> <b>4766 Highway 61 Neebing, ON P7L 0B5</b> <b>T: 807-474-5331 F: 1-807-474-5332</b>		<b>Application for Validation of Title Order</b>	
The Applicant consents to an inspection of the property by members of the Neebing Municipal Council and by municipal staff. The undersigned hereby applies to the Neebing Municipal Council under the Planning Act, R.S.O. 1990, c. P. 13, as amended. <b>THE INFORMATION IN THIS APPLICATION IS COLLECTED FOR THE PURPOSE OF CREATING A RECORD THAT IS AVAILABLE TO THE GENERAL PUBLIC.</b>			
<b>1.a) Owner(s) as shown on Transfer/Deed of Land(s); Use additional pages if needed.</b>			
Name: Albert Kapush Contracting Ltd.		Tel: 807-707-9696	
Address: 1490 Broadway Avenue West, Thunder Bay, ON P7K 1M1		Fax:	
City/Prov/PC:		Email: jackkapush@hotmail.co.uk	
Name:		Tel:	
Address Same As Owner Above <input type="checkbox"/> Or		Fax:	
City/Prov/PC:		Email:	
<b>b) Agent Information Acting on Behalf Of Owner(s) (If Any):</b>			
Name: Matthew Pascuzzo, Buset LLP		Tel: 807-623-2500	
Address: 1121 Barton Street, Thunder Bay, ON P7B 5N3		Fax:	
City/Prov/PC:		Email: mpascuzzo@busetlaw.com	
<b>c) Specify to whom all communications regarding this Application should be sent: <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Agent</b>			
<b>2. Location and Description of Subject Property or Properties:</b>			
<b>FIRST PARCEL:</b>			
Assessment Roll Number: 58-01 -030-006-35000-0000			
Civic Address or abutting road name: Margaret Street (abutting)			
Geographic Municipality: <input type="checkbox"/> Crooks <input checked="" type="checkbox"/> Blake <input type="checkbox"/> Scoble <input type="checkbox"/> Pearson <input type="checkbox"/> Pardee			
Registered Plan #:		Mining Location #: K16	
Reference Plan #:			
Lot #:	Concession #:	Part #:	Sec. #:
Frontage in Meters: 500 metres +		Depth in Meters: 500 metres +	
Area in Square Meters: 3,642,174		Area in Hectares: 364	
Use of the Land	Existing: Vacant Proposed: Vacant / two residential dwellings poposed on previously severed parcels		
Official Plan Designation: Rural		Zoning: Extractive Industrial / Rural	
Number and Types of Buildings/Structures on Land:			

<b>SECOND PARCEL:</b>				
Assessment Roll Number: 58-01				
Municipal Address (or abutting road name if property has no address:				
Geographic Municipality: <input type="checkbox"/> Crooks <input type="checkbox"/> Blake <input type="checkbox"/> Scoble <input type="checkbox"/> Pearson <input type="checkbox"/> Pardee				
Registered Plan #:		Mining Location #:		Reference Plan #:
Lot #:	Concession #:	Part #:		Sec. #:
Frontage in Meters:		Depth in Meters:		
Area in Square Meters:		Area in Hectares:		
Use of the Land	Existing:		Proposed:	
Official Plan Designation:		Zoning:		
Number and Types of Buildings/Structures on Land:				
<b>3. When was/were the property/properties purchased?</b>				
See attached Schedule "A"				
<b>4. Did the Previous Owner(s) retain any interest in the subject lands? No <input checked="" type="checkbox"/> Yes <input type="checkbox"/></b>				
If so, provide details: See attached Schedule "A"				
<b>5. Does the Applicant have any interest in any other abutting lands? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/></b>				
If so, provide details: See attached Schedule "A"				
<b>6. Required Documentation</b>				
a) Attach the following documents relating to the title of all affected parcels of land: <ul style="list-style-type: none"> <li>i. The most recent abstract(s) of title for the parcel to be validated and the remaining parcel from the deed prior to the possible contravention of the Planning Act.</li> <li>ii. A chart showing chain of title.</li> <li>iii. Copies of registered deeds to indicate the land transfers that have occurred from the time the possible contravention took place.</li> <li>iv. Copies of any outstanding encumbrances (i.e., mortgages).</li> <li>v. Copies of all registered easements or rights of way over the parcel(s) in question.</li> <li>vi. Copies of any registered plans or reference plans for the subject and abutting lands.</li> </ul>				

b) Name of the previous owner who transferred land in apparent contravention of the subdivision provisions of the Planning Act:

Cloud Bay Enterprises Limited

c) Provide an explanation as to why this person is unavailable to sign a Consent Application (*NOTE: If the person is available, a Consent application must be used rather than a Validation Order*):

See attached Schedule "A"

**7. Please explain the events that caused the apparent contravention of the Planning Act.**

See attached Schedule "A"

**8. What is the Access to the subject property?**

☐ Provincial Highway    ☒ Municipal Road    ☐ Private Road    ☐ Other:

**9. If this Application involves one or more parcels of land to be used for any occupancy by humans (i.e. residential, commercial, recreation), attach approval(s) for all sanitary septic system/services and evidence of adequate potable water supply.**

**10. Attach a sketch indicating all relevant land parcels to this Application.**

**Provide the following information on the sketch:**

- i. the boundaries and dimensions of the relevant parcels;
- ii. the land parcel ownership interests;
- iii. the approximate location of all natural and artificial features on the land and adjacent lands that, in the opinion of the Applicant, may impact the application (i.e. buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells, septic tanks, road allowances, rights of way, easements, etc.); and
- iv. the existing uses on adjacent properties.

**11. Please include any other information that may be useful to Council in reviewing this Application. Attached additional pages if required.**

**12. For the purposes of the Municipal Freedom of Information and Protection of Privacy Act, the Applicant(s) authorize and consent to the use of any information in this application (collected under the authority of the Planning Act) by the Municipality of Neebing for the purposes of processing this Application.**

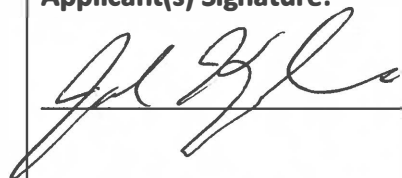
**AFFIDAVIT OR DECLARATION:**

I/We Jack Kapush of the **Municipality/Township/City** of Neebing in the Province of Ontario, solemnly declare that the information contained in this Application is accurate and that the information containin in the documents that accompany this Application is accurate.

Declared before me at the **Municipality/Township/City** of Thunder Bay, this 26th day of March, 2025.

  
Commissioner for Taking Affidavits

**Applicant(s) Signature:**



If the Applicant is a Corporation, the application shall be signed by an Officer of the Corporation and the Corporate Seal shall be affixed – or written authroization from the Corporation signed by an individual who has authority to bind the Corporation.

**Owner's/Owners' Authorization for an Agent to make the application on his/her/their/ behalf/behaves:**  
I/We authorize Buset LLP (name of Agent) to act on **my/our** behalf in submitting this application, which is filed with **my/our** knowledge and consent.

  
Owner/Owners' Signatures

March 26 - 2025  
Date



1121 BARTON STREET  
THUNDER BAY ON P7B 5N3

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## Schedule "A"

### Background

The background facts are as follows:

1. The registered owner of the Property is Albert Kapush Contracting Ltd.;
2. The Property is legally described as K16 NEAR STURGEON BAY BLAKE; PT 66 FT RDAL BLAKE PT 2 5511303; NEEBING, being all of PIN 62273-0463 (R). A copy of the Parcel Register for the Property is attached hereto as Appendix "A";
3. In 1977, Cloud Bay Enterprises Ltd. ("Cloud Bay") transferred the Property to Albert Kapush Contracting. The Transfer was registered at the Land Registry Office at Thunder Bay as instrument no. TBR196881. A copy of the Transfer is attached hereto as Appendix "B";
4. At the time of the Transfer, the Property was not a whole lot in a registered plan of subdivision;
5. At the time of the Transfer, Cloud Bay was the registered owner of an abutting property, legally described as NE SUBDIVISION SEC 1 CON 5 BLAKE; E 37 ACRES OF NW SUBDIVISION SEC 1 CON 5 BLAKE; PT NW SUBDIVISION SEC 1 CON 5 LYING W OF E 37 ACRES OF NW SUBDIVISION SEC 1 CON 5 BLAKE; NEEBING, being all of PIN 62273-0470 (R) (the "Cloud Bay Property");
6. The Cloud Bay Property abuts near the northwesterly corner of the Property as seen on the map attached hereto as Appendix "C"; and
7. At the time of the Transfer, Cloud Bay transferred the Property, which was not a whole lot on a registered plan of subdivision, and retained title to the abutting Cloud Bay Property, resulting in a contravention of section 50 of the Act.

In light of the foregoing, a Validation Certificate is required to rectify the Planning Act contravention. A consent should have been obtained for the Transfer to occur from Cloud Bay to the Applicant in 1977. A Validation Certificate will validate the Transfer and allow the Applicant to convert the Property from the Registry System to Land Titles.



**APPENDIX "A"**  
**Parcel Register for the Property**



LAND  
REGISTRY  
OFFICE #55

ABSTRACT INDEX (ABBREVIATED) FOR PROPERTY IDENTIFIER

62273-0463 (R)

PAGE 1 OF 1  
PREPARED FOR Alicia01  
ON 2024/10/08 AT 12:27:31

**PROPERTY DESCRIPTION:** K16 NEAR STURGEON BAY BLAKE; PT 66 FT RDAL BLAKE PT 2 5511303; NEEBING

**PROPERTY REMARKS:**

**ESTATE/QUALIFIER:**

**RECENTLY:**

FIRST CONVERSION FROM BOOK

**PIN CREATION DATE:**

2004/04/26

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CRST/ CHRD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES AND DELETED INSTRUMENTS SINCE 2004/04/23 **						
DATE OF EARLIEST REGISTRATION LOADED: 1972/05/10						
✓ TBR145768	1972/05/10	CERTIFICATE				C
REMARKS: FORFEITURE						
TBR196681	1977/06/13	TRANSFER	\$2		ALBERT KAPUSH CONTRACTING LIMITED	C
✓ TBR196683	1977/06/13	AGREEMENT (APPEARS TO HAVE EXPIRED)				C
55R11303	2000/03/06	PLAN REFERENCE				C
✓ TBR415701	2001/03/27	DEPOSIT				C
✓ TBR415702	2001/03/27	TRANSFER	\$5,386		ALBERT KAPUSH CONTRACTING LTD.	C

NOTE: ADJOINING PROPERTIES SHOULD BE INVESTIGATED TO ASCERTAIN DESCRIPTIVE INCONSISTENCIES, IF ANY, WITH DESCRIPTION REPRESENTED FOR THIS PROPERTY.  
NOTE: ENSURE THAT YOUR PRINTOUT STATES THE TOTAL NUMBER OF PAGES AND THAT YOU HAVE PICKED THEM ALL UP.

**APPENDIX "B"**

**Transfer from Cloud Bay Enterprises Ltd. to Albert Kapush Contracting Ltd.**

Deed — Without Dower

196681  
**This Indenture**

made (in duplicate) the 2nd day of June  
one thousand nine hundred and seventy-seven.

In Pursuance of The Short Forms of Conveyances Act

Between

CLOUD BAY ENTERPRISES LIMITED, a Company  
incorporated under the laws of the Province  
of Ontario,

hereinafter called the GRANTOR  
of the FIRST PART;

- and -

ALBERT KAPUSH CONTRACTING LIMITED, a Company  
incorporated under the laws of the Province  
of Ontario, and having its head office at the  
City of Thunder Bay, in the District of Thunder  
Bay,

hereinafter called the GRANTEE  
of the SECOND PART.

**Witnesseth** that in consideration of other good and valuable  
consideration and the sum of TWO (\$2.00)-----

-----Dollars  
of lawful money of Canada now paid by the said Grantee to the said  
Grantor (the receipt whereof is hereby by it acknowledged),  
the said Grantor Doth Grant unto the said Grantee in fee simple.  
All and Singular that certain parcel or tract of land and premises  
situate lying and being in the Township of Blake, in the District  
of Thunder Bay and Province of Ontario, and being composed  
of: Lot K 16; in the said Township of Blake.

Dye & Dunham  
Co. Limited  
Toronto, Canada  
Form 1104

This is to certify that the above is a true and correct copy of the original as filed in the Land  
Registry Office at the City of Toronto, Ontario, on the 11th day of July 1977.  
 1977 JUL 11 10 01 AM  
 for The Minister of Revenue



Ontario

261  
152(1)

To have and to hold unto the said Grantee its <sup>successors</sup> ~~heirs~~ and assigns, to and for its and <sup>their</sup> ~~their~~ sole and only use for ever. Subject nevertheless to the reservations, limitations, provisoes and conditions, expressed in the original grant thereof from the Crown.

Deed — Without Dower  
Page 2 — Dye & Durham

The said Grantor Covenants with the said Grantee That he it has the right to convey the said lands to the said Grantee notwithstanding any act of the said Grantor.

And that the said Grantee shall have quiet possession of the said lands, free from all encumbrances.

And the said Grantor Covenants with the said Grantee that he it will execute such further assurances of the said lands as may be requisite.

And the said Grantor Covenants with the said Grantee that he it has done no act to encumber the said lands.

And the said Grantor Releases to the said Grantee All its claims upon the said lands.

IN WITNESS WHEREOF Cloud Bay Enterprises Limited has hereunto affixed its corporate seal duly attested by the hands of its proper officers in that behalf.

~~In Witness Whereof the said parties have hereunto set their hands and seals~~

~~Signature of Cloud Bay Enterprises Limited~~  
~~NOT A PUBLIC OFFICER~~

CLOUD BAY ENTERPRISES LIMITED

Per:

*B. Van der Linde*  
President

## THE LAND TRANSFER TAX ACT, 1974

### Affidavit of Residence

IN THE MATTER OF THE CONVEYANCE OF E82X822XTHUNDERX888X LOT K 16,

TOWNSHIP OF BLAKE

(Insert brief description of land)

TO ALBERT KAPUSH CONTRACTING LIMITED

(Insert names of all transferees)

I, Albert Kapush of R.R.#12, Thunder Bay, Ontario.  
(print name and address)

#### MAKE OATH AND SAY THAT:

1. I am (place a clear mark within the square opposite that one of the following paragraphs that describes the capacity of the deponent):

(a) A person to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed; ☐

(b) One of the trustees named in the above-described conveyance to whom the land is being conveyed; ☐

(c) A transferee named in the above-described conveyance; ☐

(d) An agent authorized in writing to act for Albert Kapush Contracting Limited which is a company  
(insert name of principal) ☒

described in paragraph (c) above (insert only one of paragraph (a), (b), or (c) above);

(e) The solicitor acting in this matter for \_\_\_\_\_ who is a person  
(insert name of client) ☐

described in paragraph \_\_\_\_\_ above (insert only one of paragraph (a), (b) or (c) above);

and as such, I have personal knowledge of the facts herein deposed to.

2. None of the transferees to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed is, within the meaning of the Act, a non-resident person (strike out this paragraph if inapplicable).

3. The following persons to whom or in trust for whom the land conveyed in the above-described conveyance is being conveyed are non-resident persons within the meaning of the Act: \_\_\_\_\_

(insert the name and place of residence -- or in the case of a corporation, the place of incorporation -- of any transferee who is a non-resident person. If space is insufficient, attach a list of those transferees who are non-resident persons.)

4. I have read over and considered the definitions of "non-resident corporation" and "non-resident person" set out respectively in clause f and g of subsection 1 of section 1 of the Act.

Sworn before me at the City

of Thunder Bay

in the District

of Thunder Bay

this 10th

day of June 1977

Mary J. Sitarik  
A Commissioner, etc.

Albert Kapush

Mary J. Sitarik, a Commissioner, etc.,  
District of Thunder Bay, for Petrona, Halibody  
& Associates, Solicitors.  
Expires July 2, 1979.

Affidavit — The Planning Act

Ore & Dorian Co. Limited, 160 Bayview Ave., Toronto  
Law and Commercial Brokers  
Form No. 618

# The Registry Act

IN THE MATTER of the PLANNING ACT (as amended)

AND IN THE MATTER of the TITLE TO ~~222-222-2222222222~~ LOT k 16,  
TOWNSHIP OF BLAKEDev't. Mortgage,  
Agreement of  
Sale, Lease, etc.

AND IN THE MATTER OF A DEED

THEREOF, FROM CLOUD BAY ENTERPRISES LIMITED

TO ALBERT KAPUSH CONTRACTING LIMITED

DATED June 2, 1977.

I, Beverly Van Johnson

of the Town of Grand Marais In the State of Minnesota,  
one of the United States of America

MAKE OATH AND SAY AS FOLLOWS:

1. I am President of Cloud Bay Enterprises Limited  
named in the above mentioned instrument, and have knowledge of the matters hereinafter  
sworn.

2. The said instrument, and the conveyance or other dealing with land affected thereby, do  
not contravene the provisions of The Planning Act, as amended, because

Delete  
if not  
applicable

(a) The present registered owner does not retain the fee or the equity of redemption in, or a  
power or right to grant, assign or exercise a power of appointment with respect to any land  
abutting the land affected by the deed.

State  
other  
reason  
if any

The Transferor Corporation is not a non-resident Corporation  
within the meaning of The Income Tax Act.

SWORN before me

at the City of Thunder Bay

in the District of Thunder Bay

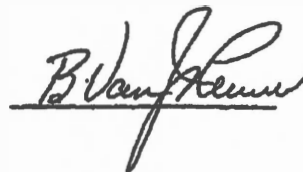
this 10th

day of June

19 77.



A Commissioner for Taking Affidavits, etc.



Mary J. Sisk, a Commissioner, etc.,  
District of Thunder Bay, for Petrona, Northey  
& Associates, Barristers,  
Expires July 2, 1979.



## AFFIDAVIT OF SUBSCRIBING WITNESS

I, \_\_\_\_\_  
 of the \_\_\_\_\_  
 in the \_\_\_\_\_ make oath and say:  
 I am a subscribing witness to the attached instrument and I was present and saw it executed  
 at \_\_\_\_\_ by \_\_\_\_\_

\*See footnote

\*See footnote

I verily believe that each person whose signature I witnessed is the party of the same name referred to in the instrument.

SWORN before me at the \_\_\_\_\_

in the \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

\*Where a party is unable to read the instrument or where a party signs by making his mark or in foreign characters add "after the instrument had been read to him and he appeared fully to understand it." Where executed under a power of attorney insert "I am an attorney for (name of party)" and for next clause substitute "I verily believe that the person whose signature I witnessed was authorized to execute the instrument as attorney for (name)".

Amended, Jan. 1975

## THE LAND TRANSFER TAX ACT, 1974

## AFFIDAVIT OF VALUE OF THE CONSIDERATION

IN THE MATTER OF THE CONVEYANCE made

by: Cloud Bay Enterprises Limitedto: Albert Kapush Contracting Limitedon the 2nd day of June, 1977.I, Beverly N. Van Johnsonof the Town of Grand Maraisin the State of Minnesota, one of the United States of America.

MAKE OATH AND SAY THAT:

1. I am President of the Grantor named in the within (or annexed) conveyance.
2. I have a personal knowledge of the facts stated in this affidavit.
3. (1) The total consideration for this transaction has been allocated as follows:
 

(a) Land, building, fixtures and goodwill	\$ 70,000.00
(b) Chattels — items of tangible personal property (see note)	Nil
<b>TOTAL CONSIDERATION</b>	<b>\$ 70,000.00</b>
- (2) The true consideration for the transfer or conveyance for Land Transfer Tax purposes is as follows:
 

(a) Monies paid in cash	\$ 20,000.00
(b) Property transferred in exchange (Detail Below)	Nil
(c) Securities transferred to the value of (Detail Below)	Nil
(d) Balances of existing mortgages with interest owing at date of transfer	Nil
(e) Monies secured by mortgage under this transaction	\$ 50,000.00
(f) Liens, royalties, annuities and maintenance charges to which transfer is subject	Nil
(g) Other (Detail Below)	Nil
<b>TOTAL CONSIDERATION (should agree with 3(1) (a) above)</b>	<b>\$ 70,000.00</b>

All blanks must be filled in.

4. If consideration is nominal, is the transfer for natural love and affection? No
5. If so, what is the relationship between Grantor and Grantee? None
6. Other remarks and explanations, if necessary: 120/105/315

315. —

SWORN before me at the City of Thunder Bay  
 in the District of Thunder Bay

this 10th day of June, 1977

May J. Sivak  
 Commissioner, etc.

B. Van Johnson  
 (signature)

May J. Sivak, a Commissioner, etc.  
 District of Thunder Bay, for Petrus, Notary  
 & J. Sivak, Notary,  
 Expires July 2, 1977.

NOTE TO PARAGRAPH 3(1) (b): Chattels: Retail sales tax is payable on the valuation of items shown in 3(1) (b) unless otherwise exempted under the provisions of The Retail Sales Tax Act, R.S.O. 1970, c.418, as amended.  
 For the purpose of this affidavit insert above only the value of chattels, the total value of which in the opinion of the deponent exceeds \$100.00. This does not constitute a purchaser from the payment of Retail Sales Tax on any tangible personal property as part of this transaction. When chattels are purchased as part of this transaction with a value of less than \$100.00, the applicable tax should be paid by the purchaser to the Treasurer of Ontario and remitted to the Minister of Revenue.

executed the attached instrument,

was my wife/husband

**We hold the land as Joint Tenants / Trustees / Partnership Property.**

19. ~~day of~~ this

**A CONSULTING AND TRAINING AGENCY, LTD.**

\* "Where officials made by allowing religious 'giving' to control the social substance as evidence for (sexual, by/for sexual abuse, and if married, some of sexual, and when by/for revealed the power of sexual, by/for had sexual the power of sexual."

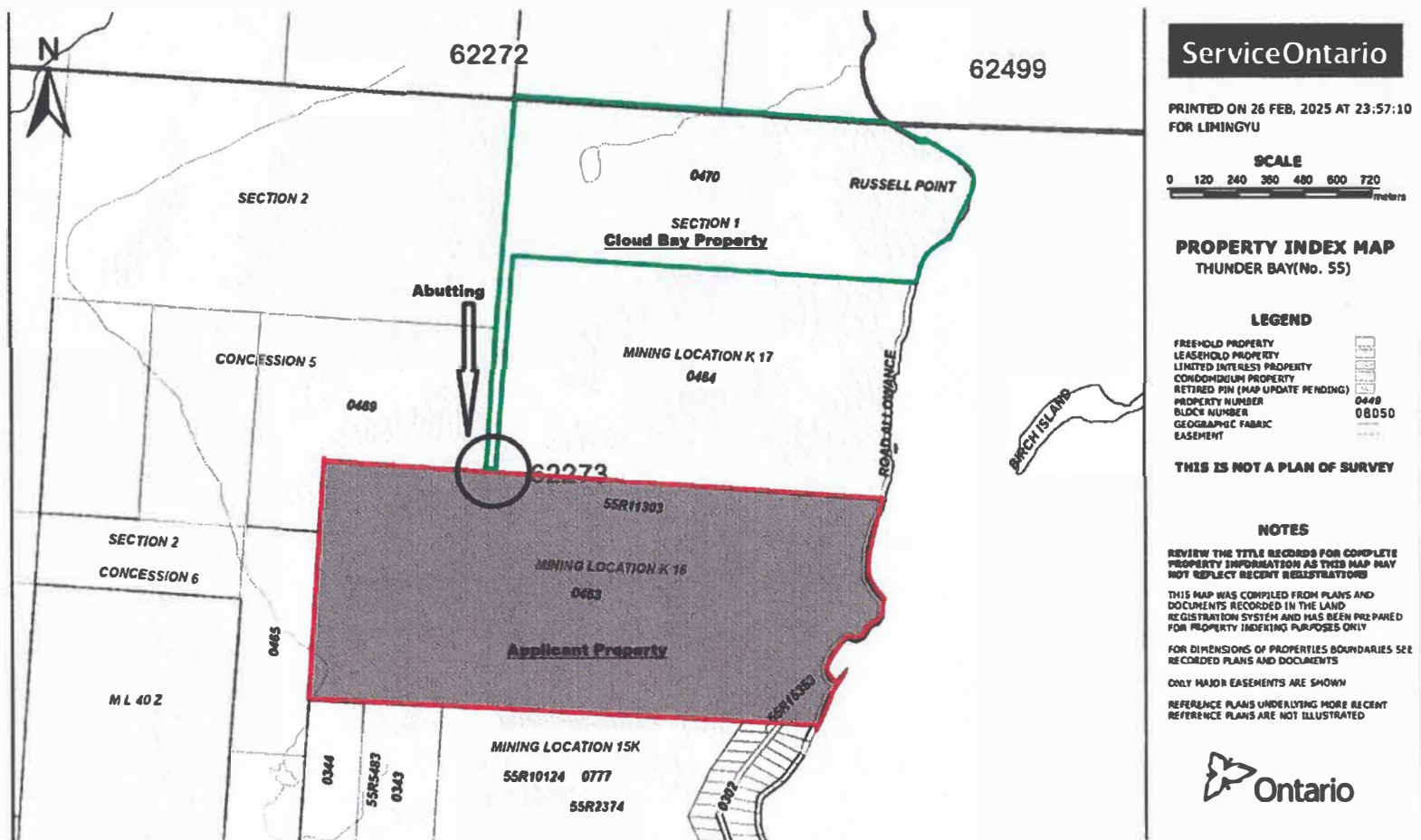
77313F2325	Q00315.00	Ki
77313F2325	Q00010.00	Pi

REGISTRATION FEE	10. -
LAND TRANSFER TAX	315. -
RETAIL SALES TAX	

Registry Office  
at Thunder Bay,  
Ontario.

**THIS SPACE TO BE RESERVED FOR CERTIFICATE OF REGISTRATION**

**APPENDIX “C”**  
**Property Maps**



**The Corporation of the Municipality of Neebing  
Administrative Report**

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**Date:** April 11, 2025 for Special Committee of the Whole Meeting on April 16, 2025

**To:** Mayor and Council, Sitting as Committee of the Whole

**Subject:** Application for Validation Order  
Mining Location K16 + Adjacent Property  
Near Margaret Street North  
Property File Numbers: 58-01-030-006-3500 (ML K16)  
and 58-01-030-006-15400 (adjacent property)  
Planning Application File Number V01-2025

**Submitted by:** Erika Kromm, Clerk-Treasurer

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**RECOMMENDATION**

With respect to the application brought by Albert Kapush Contracting, the property owner, through their agent, Matthew Pascuzzo (Buset LLP, law firm), for a Validation Order confirming the existence of a lot created historically, Administration recommends that the Committee of the Whole pass a resolution recommending to Council the conditional approval of the application, as follows:

That, a public meeting having been held with respect to the application by Albert Kapush Contracting, relative to two vacant properties in Neebing with no municipal address, and one legally described as:

Mining Location K16 Near Sturgeon Bay Blake; Part 66 Foot Road Allowance  
Blake Part 2 on Reference Plan 55R11303 (PIN 62273-0463),

and the second legally described as:

NE Subdivision Section 1 Concession 5 Blake; East 37 Acres of NW  
Subdivision Section 1 Concession 5 Blake; Part NW Subdivision Section 1  
Concession 5 Lying West of East 37 Acres of NW Subdivision Section 1  
Concession 5 Blake (PIN 62273-0470),

all within geographic Blake Township, Municipality of Neebing, in the District of Thunder Bay, Committee of the Whole recommends:

THAT the validation order requested in Application V01-2025, as submitted by Albert Kapush Contracting, be approved by Council.

Because it is important, in the event of an appeal, that Council clearly state its reasoning for the approval of the application, the Committee of the Whole further recommends that Council adopt the following as the reasons for approval of the application, being:

- Overall, the Committee is satisfied that the application represents “good planning”;
- The application will facilitate planned infill development;
- The proposed lot will not result in negative impacts to any nearby residential property owners; and
- The application does not impose any additional service requirements on the Municipality.

## **BACKGROUND**

### **What is a “Validation Order”?**

The Planning Act’s Section 50 contains the rules relating to the subdivision of land – whether by plan of subdivision or by the severance/consent process. If the rules are not obeyed, Subsection 50(21) provides:

(21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof **does not create or convey any interest in land**, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with. (emphasis added)

It is quite a “draconian” result – if you don’t abide by the rules, your deed, lease and/or mortgage is invalid. Period. If this happens, then the “next person” who purportedly buys the property, also obtains no interest in the land – and so on, and so on. Since lawyers search title for people buying houses, one would think that an error would get noticed – but that does not always happen.

In this case there have been no transfers or other instruments related to the property since the original transfer in 1977. It was only discovered when the applicant attempted to register the severance that was approved by Council on January 15, 2025.

Subsection 57(1) of the Planning Act (R.S.O. 1990, c. P.13) provides:

57 (1) A council authorized to give a consent under section 53, other than a council authorized to give a consent pursuant to an order under section 4, **may issue a certificate of validation in respect of land described in the certificate, providing that the contravention of section 50 or a predecessor of it or of a by-law passed under a predecessor of section 50 or of an order made under clause 27 (1) (b), as it read on the 25th day of June, 1970, of *The Planning Act*, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor of it **does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land.**** (emphasis added)

A certificate of validation, also known as a “validation order”, can be issued to “fix” a historic title problem caused by violation of the Planning Act. An example of when a validation of title may be used is where the owner of a property conveyed a portion of a property, while

retaining an interest in the abutting property without getting the required approvals under the Planning Act. It can also be used to validate a mortgage where the required approvals under the Planning Act were not received. Anyone that has sufficient interest in the property, such as the owner, mortgagee or estate, can apply for a validation of title.

In this case, a validation order is required to validate the conveyance of land where the property owner retained the abutting land without getting the required approvals. The land that was transferred in 1977 had been merged in title with other abutting properties owned by the same owner. Since these properties were not separate lots on a plan of subdivision or subject of a consent application, the transfer contravened the Planning Act.

The two land parcels which are the subject matter of the application are located beyond the end of Margaret Street North. These are vacant properties with no municipal address. Together, these two parcels are referred to as the “Subject Property”.

The application for the validation order contains the results of title searches undertaken by the applicant’s lawyer.

### When Properties “Merge”

Because of the operation of Section 50 of the Planning Act, which prohibits a person from selling a parcel of land while he/she retains ownership in an abutting parcel (without having first undergone a Planning Act process – severance or subdivision), when a person purchases the property “next door”, the title to his/her land and the title to the newly purchased land are said to “merge”. Neither parcel can be sold without the other (but they can both be sold, together, as one property) without undergoing a Planning Act process. There is now one parcel of land where there once was two.

There is a rule, colloquially known by real estate lawyers as “once a consent; always a consent”, meaning that a severance that is finalized does not “lapse” with the passage of time, regardless of whether or not the side-by-side parcels are owned by the same person. There is no “merger of title” in those circumstances. The “merger of title” occurs when title to two adjacent parcels that were not created through a Planning Act process (i.e. severance or plan of subdivision) are held in the same name(s).

## **DISCUSSION:**

### This Application

The Applicant, Albert Kapush Contracting, has previously been approved by Council to sever three lots from the piece of land that was transferred in 1977. However, the new severed lots cannot be registered because the parcel cannot be converted from the old Registry system to the new Land Titles system. The reason being is that the original 1977 transfer contravened the Planning Act which invalidates the transfer to Albert Kapush Contracting.

### Description of Subject Property

The Subject Property is a large property located at the end of Margaret Street North and along Lake Superior. The land is vacant and zoned as rural and extractive industrial with some Use Limitation along the shoreline and the cliffs. The area where the three new lots will

be developed were re-zoned to Lakefront Residential on January 15, 2025. The property has not yet been used to extract aggregate but has future potential to be a source of aggregate.

Attachment One to this Report is a summary of information about the Subject Property for Council's convenience.

### Properties in the Vicinity

The property is surrounded by mostly vacant land and the Margaret Street North subdivision. The property owner's active aggregate operation is located on the property immediately south of the subject property. The subdivision is a mix of seasonal and permanent residents.

### Council Considerations

The Planning Act provides that a council considering whether or not to grant a validation order should take into consideration the "prescribed" criteria. Ontario Regulation 144/95 contains the prescribed criteria for validation orders. It provides:

1.(1) In considering whether to issue a certificate under section 57 of the Act, council shall have regard to the matters described under subsection 51(24) of the Act.

(2) No certificate under section 57 of the Act shall be issued by a council unless the certificate conforms with,

- (a) any official plan in effect in the municipality;
- (b) the zoning by-law of the municipality, if any; and
- (c) any Minister's zoning order under clause 47(1)(a) of the Act.

Subsection 51(24) of the Act contains the list of matters for Council's consideration when considering a draft plan of Subdivision. Pursuant to the above-cited regulation, however, these considerations also apply to validation orders. They are:

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;



- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*.

### Relevant Provincial Policies

The following are relevant excerpts from the Official Plan:

- 2.2.1 Consents shall only be granted that conform with the policies of this Plan, provided that:  
Consents shall only be granted that conform with the policies of this Plan, provided that:
- (a) The retained and severed lot(s) can be adequately and safely serviced;
  - (b) The soil and drainage conditions are adequate for the proposed use and permit the proper siting of buildings and the installation of private septic disposal systems;
  - (c) The lands front onto a public road that is maintained by the Municipality or the Province and is of an acceptable standard of construction;
  - (d) ...
  - (e) No traffic hazard is created by the consent, and safe access/egress to the retained and severed lot(s) is feasible;
  - (f) The consent does not result in land use conflicts with existing nearby uses;
  - (g) The lot size and configuration are suitable for the proposed use and, where possible, consistent with adjacent development;
  - (h) The requirements of the Minimum Distance Separation Criteria 1 are adhered to when a consent for residential purposes is being proposed in proximity to existing livestock operations;
  - (i) The consent does not result in land locked parcels being created;
  - (j) The proposed use can be safely located away from and outside of floodways of rivers and streams, use limitation areas, mine hazards and areas designated Environmental Protection;
  - (k) ...
  - (l) Subject to all other policies of this plan, not more than 4 lots, inclusive of the retained part shall be permitted from a parcel of land held under unity of ownership as of October 4, 1972.

The parcels fall within all of the above relevant paragraphs. With respect to the MDS Criteria 1, there are no livestock operations in the vicinity of the Subject Property.

- 4.3.2 The Rural area is characterized as a low density, multi-purpose area in which a variety of land uses can be accommodated in a compatible manner consistent with the rural character of the Municipality

A validation order would not detract from the low density characteristics of the Rural area. The proposed severed and retained lot meet Zoning By-law frontage, depth and overall size requirements.

- 4.3.5 While land in the rural designation may be developed for a variety of uses, regard shall be given to ensure that development is compatible with surrounding land uses and appropriate for the site before development approval is given.

The development is compatible with surrounding land and appropriate for the Subject Property

The size and configuration of both parcels complies with Neebing's Zoning By-law (2017-030).

### **CONCLUSION**

Administration concludes that recognizing the validation order is supported by the policies and general intent of Neebing's Official Plan and the Provincial Policy Statement, 2024. Further, it meets a majority if the criteria for consideration set out in Ontario Regulation 144/95, the elements listed in Subsection 51(24) of the Planning Act, and the criteria in Section 2.2.1 of Neebing's Official Plan.

### **ALTERNATE RESOLUTION**

Should Committee of the Whole wish to recommend that Council deny the application rather than approve it, the Clerk-Treasurer will develop the appropriate resolution for Committee's consideration.

### **ATTACHMENTS**

1. Fact Sheet
2. Lot Fabric of the Subject Property
3. Comments from LRCA

### **AVAILABLE FOR REVIEW UPON REQUEST AND/OR AT THE MEETING**

File Information – including all documents referenced in the report

**ATTACHMENT ONE: Fact Sheet**

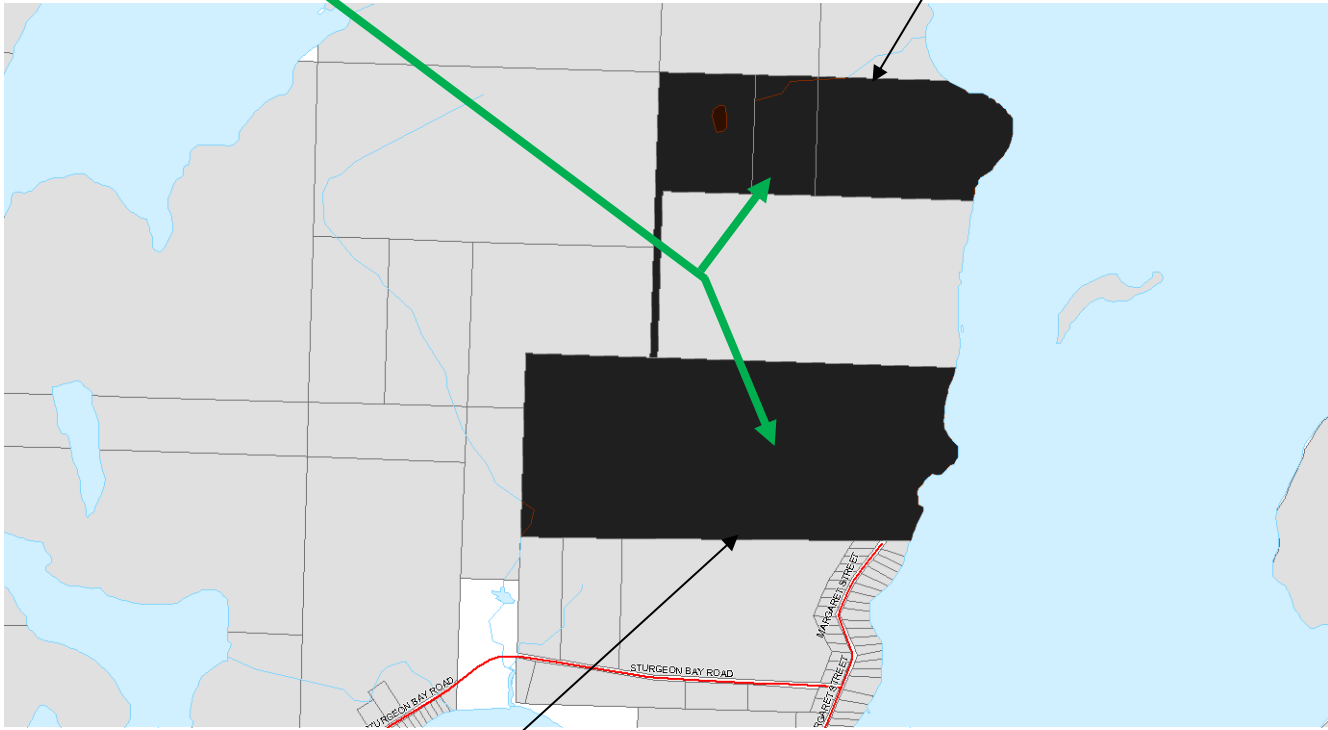
Owner/Applicant	Albert Kapush Contracting Ltd.
Agent	Matthew Pascuzzo, Buset LLP
Property Location	The Subject Property, comprised of two roll numbers, is located beyond the end of Margaret Street North in geographic Blake Township.
<b>Parcel One –Subject Property (Roll Number 58-01-030-006-35000)</b>	
Legal Description	Mining Location K16 Near Sturgeon Bay Blake; Part 66 Foot Road Allowance Blake Part 2 on Reference Plan 55R11303, geographic Township of Blake, in the Municipality of Neebing (PIN 62273-0463)
Municipal Address	No Municipal Address
Property Dimensions	Area: 364 hectares
	Frontage: Private access from end of Margaret Street North
	Depth:
Existing & Proposed Use	Vacant Land
Existing & Proposed Structures	Residential (on severed lots)
Municipal Services	None
Official Plan Designation (existing & proposed)	Rural
Zoning (existing & proposed)	Extractive Industrial/Lakefront Residential with some use limitation
<b>Parcel Two of the Subject Property (Roll Number 58-01-040-007-07400)</b>	
Legal Description	NE Subdivision Section 1 Concession 5 Blake; East 37 Acres of NW Subdivision Section 1 Concession 5 Blake; Part NW Subdivision Section 1 Concession 5 Lying West of East 37 Acres of NW Subdivision Section 1 Concession 5 Blake, geographic Township of Blake, in the Municipality of Neebing (PIN 62273-0470)
Municipal Address	No Municipal Address
Property Dimensions	Area: 92 hectares
	Frontage: no frontage (private access)
	Depth:
Existing & Proposed Use	Vacant Land
Existing & Proposed Structures	Residential (on severed lots)
Municipal Services	None
Official Plan Designation (existing & proposed)	Rural
Zoning (existing & proposed)	Rural with some use limitation

Agencies/Authorities to whom notice was sent:	<p>Circulated:</p> <p>Lakehead Region Conservation Authority;  Lakehead Rural Planning Board;  Ministry of Natural Resources &amp; Forestry;  Ministry of Municipal Affairs and Housing;  Ministry of Transportation;  Thunder Bay District Health Unit;  Hydro One Land Use Planning Section;  Ontario Power Corporation;  Enbridge Gas;  Fort William First Nation;  Métis Nation of Ontario; and  Red Sky Métis Nation.</p>
Pre-circulation	Completed April 1, 2025
Public Comments Received	LRCA
Public Meeting Notice	Given, as required on April 1, 2025 via direct mail to public agencies, First Nations, and property owners of property within the prescribed distance
	April 2025

**ATTACHMENT TWO: Map of Lot Fabric of Subject Property**

Subject Property

Parcel Two



Parcel One

April 3, 2025

VIA EMAIL: clerk@neebing.org

Erika Kromm  
Clerk-Treasurer  
Municipality of Neebing  
4766 Highway 61  
Neebing, Ontario P7L 0B5

Dear Ms. Kromm,

**Re: Application: V01-2025**  
**Applicant: Albert Kapush Contracting Ltd.**  
**Agent: Matthew Pascuzzo (Buset LLP, law firm)**

Lakehead Region Conservation Authority (LRCA) staff have reviewed the above-noted proposed validation order to recognize the existence of two lots, which are legally described as the following:

1. Mining Location K16 Near Sturgeon Bay Blake; Part 66 Foot Road Allowance Blake Part 2 on Reference Plan 55R11303, within geographic Blake Township, Municipality of Neebing, in the District of Thunder Bay (PIN 62273-0463)
2. NE Subdivision Section 1 Concession 5 Blake; East 37 Acres of NW Subdivision Section 1 Concession 5 Blake; Part NW Subdivision Section 1 Concession 5 Lying West of East 37 Acres of NW Subdivision Section 1 Concession 5 Blake, within geographic Blake Township, Municipality of Neebing, in the District of Thunder Bay (PIN 62273-0470)

#### **Documents Received and Reviewed by Staff**

Staff have reviewed this application as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 5.2 of the Provincial Planning Statement (PPS, 2024); as a regulatory authority under Ontario Regulation 41/24; related to policy applicability and to assist with implementation of the Lakehead Source Protection Plan under the Clean Water Act; and when applicable as a potential adjacent landowner.

#### **Recommendation**

Staff have no objection to the proposed validation order application.

#### **Site Characteristics**

Existing mapping indicates that the subject property is within the LRCA Regulated Area. Regulated features include:

- 100-year flood level on Lake Superior and adjacent regulated buffer,
- Unnamed watercourse regulated area,
- Unevaluated wetland and associated adjacent regulated buffer,

- Land zoned Hazard Land, Use Limitation or Environmental Protection.

**Delegated Responsibility and Statutory Comments:**

1. The Lakehead Region Conservation Authority has reviewed the application through our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 5.2 of the Provincial Planning Statement.
  - Application is consistent with Section 5.2 of the PPS.
2. The Lakehead Region Conservation Authority has reviewed the application as per our responsibilities as a regulatory authority under Ontario Regulation 41/24. This regulation, made under Section 28 of the Conservation Authorities Act, enables conservation authorities to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Development taking place on these lands may require permission from the conservation authority to confirm that the control of flooding, erosion, dynamic beaches, unstable soil and bedrock are not affected, and the activity is not likely to create conditions that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property.
  - The construction of any buildings or structures, the placing, dumping or removal of fill, site grading, interference with a wetland, or any alteration to the shoreline of a lake or existing channel of a river, creek, stream or watercourse may require a permit from the Authority.
  - Any development within the wetland may also require a Hydrologic Impact Statement prepared by a qualified professional.

**Summary**

Given the above comments, it is the opinion of the Lakehead Region Conservation Authority that:

1. Consistency with Section 5.2 of the PPS has been demonstrated;
2. Ontario Regulation 41/24 does apply to the subject site. A permit from the Lakehead Region Conservation Authority will be required prior to any development taking place in the regulated area;
3. The subject site is not located within an area that is subject to the policies contained in the Source Protection Plan.

This information is current at the time of writing and may be amended as more accurate information becomes available. If you should have any questions, please contact Melissa Hughson, Watershed Manager, at the Authority office.

Please forward a copy of the decision to the Conservation Authority.

Sincerely,



Scott Drebit  
GIS/Water Resources Technologist  
Encl: Map



PIN 62273-0463 &  
PIN 62273-0470  
(V01-2025)



### Legend

- Subject Property
- Parcels
- Approximate Regulated Area
- Lake Superior Regulated Area
- Regulated Features:**
  - Regional Floodline
  - 100 Year Floodline
  - Fill Line
  - Floodplain
  - Approximate 100 Year Lake Superior Floodline
  - Water Body
  - Provincially Significant Wetland
  - Evaluated Wetland
  - Unevaluated Wetland
  - Stream
  - River
- Roads**
  - Highway
  - Road
  - Street

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P7B 6T8

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