

TORONTO STAFF REPORT

October 29, 2002

To: Etobicoke Community Council
From: City Solicitor
Subject: 52 Rivercove Drive, Etobicoke – Fence Dispute
Ward 3 - Etobicoke Centre

Purpose:

To report on the definitions of "flankage yard" and "front yard" as set out in Municipal Code Chapter 447, Fences, as these definitions will determine the maximum height of a fence at 52 Rivercove Drive.

Financial Implications and Impact Statement:

There are no financial implications arising from this report.

Recommendations:

It is recommended that this report be received for information.

Background:

At its meeting of October 16, 2002, Etobicoke Community Council reviewed a communication addressed to Councillor Doug Holyday from the owner of 6 Hampshire Heights, requesting that the City investigate a dispute regarding the height as well as the placement of the fence around 52 Rivercove Drive. Etobicoke Community Council referred the communication to the City Solicitor for a report on the definitions of "flankage yard" and "front yard" in Municipal Code Chapter 447, Fences (the "By-law"), as these definitions relate to the property known as 52 Rivercove Drive for the purpose of determining the permissible fence height under the By-law.

Comments:

The property at 52 Rivercove Drive is an unusually shaped corner lot, with an enclosed fence at the northeast corner of the property. Municipal Licensing and Standards ("MLS") staff have advised that at one time, the fence at 52 Rivercove Drive was not in compliance with the By-law

due to its height, and the fact that it encroached on City property and the neighbour's driveway at 4 Hampshire Heights.

As a result, I have been advised that Notices of Violation have been issued against the owner of 52 Rivercove Drive and 4 Hampshire Heights, even though the latter did not construct the subject fence. I have been advised by MLS staff that the owner of 52 Rivercove Drive, on behalf of the owner of 4 Hampshire Heights, submitted a joint application for an exemption from the By-law in order to maintain the height of the fence. In his letter of application, he considered the fence to be located in the "flankage yard" of the property. The complainant apparently believed that the fence height should be governed by the "front yard" section of the By-law, although in his letter to Councillor Holyday, he referred to it several times as a fence "on the flankage yard". It should be noted that fence height for the flankage yard is less restrictive than that of the front yard under the By-law.

"Flankage yard" is defined in the By-law as "The space, extended to the rear lot line, between the longer lot line abutting a public highway and the nearest wall of the main building on a corner lot." "Front yard" is defined as "The space, extended to the full width of the lot, between the main front wall of a building and the lot line abutting a public highway, but on a corner lot means the space, extended to the full width of the lot, between the shorter lot line abutting a public highway, other than a public lane, and the nearest wall of the main building on the lot."

The property at 52 Rivercove Drive appears to have two flankage yards due to its unusual shape and the fact that three sides of the property abut a public highway. Although I have not inspected the property and do not have a complete sketch of the property, it appears from the information at hand and my discussions with MLS staff, that the fence in question is in the flankage yard. MLS staff inspected the fence several times, and also concluded that the fence in question is indeed a fence in the flankage yard of the property. Based upon the definition of "front yard" in the By-law, it appears that the front yard is the space along the southern radius of the property as it is the shorter lot line abutting a public highway.

Conclusions:

Based upon the information before me, as the property at 52 Rivercove Drive is a corner lot and the subject fence is constructed at the yard with the longer lot line, I believe that this is a fence in the flankage yard, in accordance with its definition under the By-law, and not a fence in the front yard.

I have been advised by MLS staff that this fence has since been cut down and moved back entirely into the property of 52 Rivercove Drive and as a result, is now completely in compliance with the By-law. MLS staff was consulted in the preparation of this report.

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