

October 2, 2007

**LICENSING AND STANDARDS COMMITTEE:**

City Council on September 26 and 27, 2007, referred the following Motion to the Licensing and Standards Committee:

**M117 City Council Initiate Enforcement Action Under Chapter 485, Graffiti, Against Private Utility Companies**

*Moved by Councillor Minnan-Wong, seconded by Councillor Carroll*

**SUMMARY:**

It is widely understood that the best way to combat the recurrence of graffiti is to remove it immediately. It is believed that, if graffiti is not removed, it invites more graffiti and vandalism because it sends the message that the City doesn't care and isn't paying attention.

The proliferation of graffiti on privately owned utility structures located within the road allowance is becoming a major problem in the City of Toronto. This is largely because the utility companies, i.e., Toronto Hydro, Bell and Rogers, are not removing the graffiti within a reasonable timeframe or not at all.

In Chapter 485, Graffiti is described as '...markings that disfigure or deface a structure or thing.' It is stipulated in Chapter 485-3B, that 'the owner or occupant of property shall maintain the property free of graffiti'. Chapter 485-3C states, as well, that 'the owner or occupant of a wall or fence, or other structure or thing, in a highway or public place not included in the definition of property in 485-1, shall maintain the structure free of graffiti.' Under Chapter 485-6, 'Any person who contravenes any provision of this chapter is guilty of an offence.' It would appear that the by law encompasses utility companies relative to their structures. Utility structures are not listed as an exemption in Chapter 485-2 either.

The By-law authorizes the issuance of a notice to the property owner with a requirement for graffiti removal within 72 hours of the notice being issued. If an owner fails to comply, and no exemption is given, a second notice is issued. The City, at this point, under Chapter 485-5A, may enter upon the lands for the purposes of removing the graffiti, if the property owner has failed to do so. The costs associated with the removal, under Chapter 485-5B, may be recovered by action or by adding the costs to the tax roll and collected in the same manner as property taxes.

The City of Toronto issues notices and takes enforcement action of the kind frequently against homeowners and business owners but not to the owners of utility structures on the public right of way. If action is to be taken against property owners, it must be taken against all property owners, without exception. Only then can the Graffiti By-law be successful in dealing with the proliferation of graffiti.

**RECOMMENDATIONS:**

1. That City Council immediately direct the Director of Municipal Licensing and Standards to devote resources to surveying the City of Toronto for the purposes of identifying all utility structures with graffiti on them.
2. That City Council request confirmation from the City Solicitor that enforcement against utility companies is provided for under Chapter 485, Graffiti.
3. That the Director of Municipal Licensing and Standards immediately pursue enforcement under Chapter 485, Graffiti, against the private utility companies for failure to keep their property free of graffiti.

Council also considered a Financial Impact Statement (September 27, 2007) from the Deputy City Manager and Chief Financial Officer.

for City Clerk

M. Toft/cd

Attach.