



STAFF REPORT ACTION REQUIRED

Amendment to the Drain Grant Policy Appeal Process

Date:	March 26, 2007
To:	Public Works and Infrastructure Committee
From:	General Manager, Toronto Water
Wards:	All
Reference Number:	P:\2007\Cluster B\TW\pw07009

SUMMARY

The purpose of this report is to recommend an amendment to the City's existing Drain Grant Policy whereby authority would be delegated to the Deputy City Manager responsible for Toronto Water to consider and finally resolve individual drain grant appeals under the City's Drain Grant Policy. Currently, the Public Works and Infrastructure Committee and City Council review and consider drain grant appeals.

RECOMMENDATIONS

The General Manager of Toronto Water recommends that:

1. City Council delegate the authority to consider and finally resolve individual drain grant appeals under the City's Drain Grant Policy to the Deputy City Manager responsible for Toronto Water, subject to the following conditions;
 - (a) The delegated authority to act applies only in situations where the General Manager of Toronto Water has determined that the request for a grant is ineligible under the terms of the City's Drain Grant Policy and the grant has been denied;
 - (b) A written appeal request must be received by the General Manager of Toronto Water within 60 days of the denial of the drain grant application by the General Manager of Toronto Water;
 - (c) A written report must be provided by the General Manager of Toronto Water to the Deputy City Manager containing information detailing the matter and the basis for the denial of the grant application in the

first instance. This written report may be made available to the individual making the drain grant appeal;

- (d) The delegated authority to act must be exercised in accordance with the terms and conditions of the City's Drain Grant Policy, as may be amended from time to time by City Council;
- (e) The delegated authority to act includes the ability to consider any submissions which may be made by the individual making the appeal and to make such further inquiries for additional information as may be necessary to properly consider the appeal;
- (f) A written response to the appeal will be provided by the Deputy City Manager to the individual making the appeal;
- (g) The Deputy City Manager's decision on the outcome of the individual drain grant appeal will be final and is not subject to any further appeal;
- (h) City Council retains the ability to revoke this delegation of authority at any time;
- (i) Subject to (h), the authority to act with respect to drain grant appeals is fully delegated to the Deputy City Manager responsible for Toronto Water, and neither the Public Works and Infrastructure Committee nor City Council will review and consider drain grant appeals.

2. Subject to the adoption by City Council of Recommendation (1) above, the City's Drain Grant Policy is hereby amended to reflect the delegation of authority to consider and finally resolve drain grant appeals under the City's Drain Grant Policy as set out in Recommendation (1) above.

Implementation Points

A property owner who has had a drain grant application denied by the General Manager of Toronto Water will be advised in writing that they may appeal the decision to the Deputy City Manager responsible for Toronto Water by submitting a written request for such an appeal to the General Manager of Toronto Water.

FINANCIAL IMPACT

There are no financial impacts resulting from this report.

DECISION HISTORY

City Council at its meeting of May 11 and 12, 1999, adopted, as amended, Clause 3 of the Works and Utility Committee Report 7, entitled "Sewer Connection Blockage Inspection and Repair Program, and Tree Root Removal and Grants Policy". The adoption of this report established procedures to be followed by Toronto Water for the

inspection and repair of blocked sewer service lines (the Service Line Inspection and Repair Program) and also established a policy whereby grants would be made available to eligible property owners who had undertaken repairs to their drains that had been blocked by roots from City owned trees (the Drain Grant Policy).

City Council at its meeting of June 7, 8 and 9, 2000 adopted amendments to the drain grant appeal process to provide the owner the opportunity to appeal and appear for deputation before Works Committee when the grant application is denied by staff.

City Council at its meeting of December 4, 5 and 6, 2001, adopted, as amended, Clause 19 in Report 16 of the Policy and Finance Committee, entitled “Drain Grant Policy and Appeal Process”. The Drain Grant Policy was amended to provide for an additional grant of \$500.00 for work required to the interior of buildings on the condition that the blockage was caused by the roots of a City-owned tree and that the City inspected the work before it was done.

City Council at its meeting held on July 30, 31 and August 1, 2002, adopted clause 20 in Report 9 of the Works Committee, and entitled “Drain Grant Appeals” in which it is clarified that the Drain Grant Policy is applicable only to owners of single, duplex and triplex residential properties.

City Council at its meeting of February 16, 2005, adopted, as amended, Clause 3a of the Works Committee Report 2, entitled “Drain Grant Appeal – 3 Morningside Avenue” and requested a report on the feasibility and financial impact of amending the Drain Grant Policy to include all 4-plex, 5-plex and 6-plex residential properties.

City Council at its meeting on July 25, 26, and 27, 2006, adopted as amended, Clause 8 of Works Committee Report 5, entitled “Amendments to the Sewer Service Line Blockage Inspection Repair Program and Drain Grant Policy” in which it was agreed that the inspection of sewer line blockages would remain a first response activity of Toronto Water and several amendments to the Drain Grant Policy were approved to streamline the overall process. In addition, it was agreed that eligibility for drain grants would continue to be limited to residences with three or less separate dwelling units. An electronic copy of the report can be obtained at:

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060725/wks5rpt/cl008.pdf>

ISSUE BACKGROUND

Toronto Water is authorized to provide assistance to property owners who suspect they have a blocked sewer service line (also called a drain) between their building and the main sewer. Staff will attend to the property and inspect the drain to determine the cause of the blockage. Temporary repairs may be undertaken at the time of the inspection if at all possible. If the blockage is on City property, Toronto Water will coordinate the repair at no cost to the property owner. If the blockage is on private property, the owner will be advised to undertake the necessary repairs at their cost.

If the blockage on private property is caused by the roots of a City-owned tree, the property owner may be eligible for a grant to reduce their drain repair costs. At the time of the inspection, the property owner is advised by Toronto Water staff of the Drain Grant Policy and is provided with a copy of the City's Drain Grant Policy brochure. The property owner is then required to complete and submit an application to Toronto Water to be considered for a grant.

Details of the existing Drain Grant Policy include the following features:

1. Assistance in the form of a grant is available to owners of single-family, duplex, and triplex residential properties for the repair of a blockage in a sewer service line on private property that is caused by the roots of a City-owned tree, when confirmed by Toronto Water staff;
2. Assistance is provided per property on a no-fault or grant basis;
3. Grants will only be provided where licensed drain contractors undertake and perform the necessary repairs;
4. Grants will be provided up to a total maximum life-time amount of \$2,000 per property towards sewer service line repair work, including exterior work (foundation wall to property line) whether partial or full replacement and internal work (within the building);
5. Additional assistance beyond the sewer service line repair and replacement grant amount is available to an eligible property owner if the gross household income is verified to be less than \$35,000 and will be determined as follows:

Below \$21,000 per year -- 100 percent of the balance of the eligible repair costs
\$21,000-\$27,000 per year -- 50 percent of the balance of the eligible repair costs
\$27,000-\$35,000 per year -- 25 percent of the balance of the eligible repair costs

6. The use of a structural liner to repair a sewer service line on private property is an acceptable alternative to a full replacement.

Property owners are advised that they must comply with the following procedures, in order to be eligible for a grant:

1. Once Toronto Water staff confirm the blockage of the sewer service line was caused by the roots of a City-owned tree, it is the property owner's responsibility to hire a licensed drain contractor and obtain the necessary approvals and permits to carry out the sewer service line work on private property;
2. During the excavation for repair, a City Inspector should be on site to verify root infiltration from a City-owned tree and the extent of work being completed;

3. There is no reimbursement for costs incurred by the property owner related to the investigation of a blocked sewer service line (i.e. snaking, plunging, closed circuit television inspection) or for damaged goods and landscaping costs;
4. The property owner is responsible for payment of the contractor's invoice for work on private property. Toronto Water will not deal directly with any drain contractor for payment or dispute resolution;
5. No grant will be considered unless the current requirements of the local Plumbing Inspection Unit of Toronto Building have been met. Toronto Building requires a permit and inspection if the entire sewer service line on private property requires replacement;
6. A copy of the paid invoice and the application form must be forwarded to Toronto Water for processing. The itemized invoice must specify the external or internal work completed;
7. The approval of a grant application takes approximately 8 to 10 weeks to process;
8. Grant applications must be submitted to Toronto Water within one year from the date of a paid invoice;
9. A grant may be denied. Appeals will only be considered by the Public Works and Infrastructure Committee and be recommended to Council for approval where the property owner wishes to pursue the matter after Toronto Water staff has determined the request for a grant is ineligible under terms of the Drain Grant Policy. In situations where the property owner has been provided the maximum grant under the Policy, no appeal for additional financial assistance will be considered.

If a grant application is denied, the property owner may submit an appeal through the City Clerk or their local Councillor to be considered by the Public Works and Infrastructure Committee and City Council. Staff of Toronto Water will submit to the Committee an accompanying report that summarizes reasons for denial of the grant.

COMMENTS

The Public Works and Infrastructure Committee considers drain grant appeals on a regular basis. Considerable Committee time is dedicated to hearing deputations and reviewing the details of each appeal case. A recent review of over 2,700 grant applications concluded that approximately 10% are appealed. Of the requests for appeal, 58% were denied because they did not meet the policy with respect to the number of dwelling units contained within the building.

Of the remaining appeal requests, only a very small number have been successful, usually based on other extenuating circumstances rather than an error made by staff in applying the rules and procedures of the Drain Grant Policy. Therefore, in an effort to streamline the appeal process and reduce the amount of transactional time spent by the Public Works and Infrastructure Committee and City Council, it is recommended that City Council delegate the authority to consider and finally resolve individual drain grant appeals under the City's Drain Grant Policy to the Deputy City Manager responsible for Toronto Water, subject to the conditions set out in the Recommendations section of this Report.

Consideration of Alternatives

Staff have reviewed three alternative methods for handling drain grant appeals. The details of each are reviewed as follows:

Option 1 – Status Quo

The first alternative is to maintain the status quo. Property owners who have been denied a grant may continue to submit an appeal through their Councillor or the City Clerk for consideration by the Public Works and Infrastructure Committee and City Council. This alternative is not preferred since it is not in keeping with the attempts being made to delegate transactional matters to staff and thereby streamlining the Standing Committee and Council process.

Option 2- Delegate Appeal Reviews to General Manager of Toronto Water

The second alternative is to have the General Manager of Toronto Water consider drain grant appeals. Property owners who have been denied a grant may submit a written appeal request to the General Manager of Toronto for consideration. The General Manager would then have staff review the request and provide for his consideration an internal staff report, using a format similar to that being used for existing Committee staff reports, documenting the reasons why the application had been denied. The General Manager would then provide a written response to the property owner on the outcome of the review request. This alternative would streamline the appeal process providing answers more quickly to property owners with respect to their appeal requests. However, there could be an appearance of a conflict of interest as the appeal is being reviewed solely by Toronto Water.

Option 3 – Delegate Appeal Reviews to Deputy City Manager

The third alternative is to delegate the authority to consider and finally resolve individual drain grant appeals to the Deputy City Manager responsible for Toronto Water. Property owners would follow the same appeal process as outlined in Option 2 of this report, however the General Manager of Toronto Water would then submit a report to the Deputy City Manager for final consideration. The report would include all relevant information including details of the original appeal request from the property owner and reasons why Toronto Water staff have denied the grant application.

In considering the above options, Option 3 is being recommended as this provides for a streamlined appeal process and reduces the transactional burden on Standing Committee

and Council, while addressing the appearance of conflict of interest by delegating the appeal review to the Deputy City Manager rather than the General Manager of Toronto Water.

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SIGNATURE

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