



**STAFF REPORT
ACTION REQUIRED**

**Natural Garden Exemption Request
275 – 277 Park Lawn Road**

Date:	June 15, 2008
To:	Etobicoke York Community Council
From:	Curtis Sealock, District Manager, Municipal Licensing and Standards
Wards:	Ward 5, Etobicoke Lakeshore
Reference Number:	ML& S Folder Number 08 163482 LGW 00 IR

SUMMARY

This staff report is in response to a request to review the requirements of a Notice issued under Toronto Municipal Code, Chapter 489, Grass and Weeds, requiring that long grass and weeds be cut at 275-277 Park Lawn Road to comply with the said Chapter, on the basis that the growth is exempt as a Natural Garden, for which the Etobicoke York Community Council has delegated authority from City Council to make a final decision.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that:

1. The Etobicoke York Community Council approve this exemption request and cancel the Notice, on the condition that the garden is maintained free from any noxious weeds and invasive plants.

Financial Impact

There are no financial implications resulting from the adoption of this report.

ISSUE BACKGROUND

On May 20, 2008, a Notice was issued to St. Mark's Catholic Church, owner of 275-277 Park Lawn Road, requiring the grass and weeds to be cut in accordance with Toronto Municipal Code, Chapter 489, Grass and Weeds. A letter dated May 22, 2008 was received from the owner requesting a review of the Notice and exemption to the By-law requirements on the basis that that the lands form a Natural Garden, Attachment 1.

COMMENTS

Chapter 489 of the Toronto Municipal Code, Grass and Weeds, requires grass and/or weeds in excess of 20 centimetres (8 inches in height) to be cut upon receipt of a served Notice. The Chapter also provides for that the issuance of the Notice be reviewed by the local Community Council on the basis that the growth is exempt as a Natural Garden.

Upon review of a Natural Garden Exemption request, the corresponding Community Council may either:

- (a) Grant the exemption, with or without conditions, and cancel the Notice; or
- (b) Confirm the Notice and direct that a second Notice be given.

This report is prepared in consultation with staff of Natural Environment and Horticulture Unit of Parks, Forestry and Recreation, who reported on June 16, 2008 that the grassy slope on site is very difficult and potentially dangerous to cut with a lawn mower, and the owner has chosen to naturalize the area, Attachment 3. All noxious weeds and invasive plants (including the Garlic Mustard and Dog Strangling Vine, Attachment 2) previously found on site have been removed and the garden now meets the criteria of a Natural Garden.

CONTACT

Chip Au, Supervisor
Etobicoke York District
Municipal Licensing and Standards
Tel: (416)394-2533 Fax: (416)394-2904
E-mail: cau2@toronto.ca

SIGNATURE

Curtis Sealock, District Manager
Etobicoke York District

ATTACHMENTS

Attachment 1: Natural Garden Exemption Request

Attachment 2: Photos showing the Invasive Plants which were subsequently removed

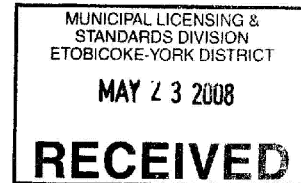
Attachment 3: Photo showing the Steep Grassy Slope of the Natural Garden

Attachment 1: Natural Garden Exemption Request

St. Mark's Catholic Church

277 Park Lawn Road, Toronto, ON M8Y 3J7
416-259-6790; Fax. 416-255-9323; stmarks@rogers.com

May 22, 2008



Curtis Sealock
Executive Director of Municipal Licensing and Standards
2 Civic Centre Court
4th Floor
Etobicoke, ON M9C 5A3

Registered Mail

Dear Mr. Sealock:

Re: Request for exemption from Notice of Violation, Folder # 08 159674 LGW 00IV

I am writing to request that the issuance of the above Notice of Violation be reviewed by my local Community Council, as indicated on the Notice. The Notice alleges that we are in violation of c. 489, s. 2(A), grass and/or weeds in excess of 20 cm./8 in. in the "Rear Yard". I am requesting that the growth be considered a natural garden and exempt from the above requirement, as provided for in the Notice.

Background. The property in question belongs to the Archdiocese of Toronto (whose legal name is The Roman Catholic Episcopal Corporation for the Diocese of Toronto, in Canada). St. Mark's Church is not a civil legal entity, and so does not own the property. It belongs to the diocese. I was appointed Pastor here only last June 27, 2007, to serve the people of this parish.

When I came, I could see that the front lawn area had not been well maintained—for example, shrubs had not been trimmed, lawn borders were not cut neatly, etc. So I hired a landscaping firm, which I had used for many years in my previous parish, to look after the grounds. Normally they come weekly, and keep the front lawn, and city boulevard area, as well as the strip that runs along the parking lot, in good order. I think if you were to look at it you would readily agree.

As for the area behind the rectory, which includes a ravine, when I came it had not been cut, and in the context of the area, to me it seemed that it was deliberately being left as a natural growth area. This was in keeping with the uncut grass of our immediate neighbours, and the adjoining ravine and wooded area. I therefore left it as it was. In spite of the fact that many people were on the premises using the Stonegate Community Gardens that were located at the bottom of the ravine, I did not receive one single complaint all last summer, either formal or informal about the grass not being cut. So I was quite surprised to receive this notice late on Tuesday, May 20.

Surrounding residences. Our immediate neighbor to the north is a house at 279 Park Lawn. They have a fairly large back yard. You can easily see that they have grass and weeds that are over 20 cm. high. Their shrubs and bushes are not trimmed. They are simply letting everything grow naturally, including their grass and weeds without cutting them. (Please note that I am not complaining about them—it does not bother me that they choose to keep their back yard as they do.) They cannot see the grass on our property because of the bushes and trees at the back of theirs, so they would have no reason to complain, especially given the nature of their own property.

There is an apartment building at 285 Park Lawn, just north of the above house. But between that building and our property, there are large trees, which would also block the view of the residents, so they could not see our property either. Another apartment building is at 1-3 Heatherdale Rd. It is further east, and borders the property of St. Mark's School. If the residents who are on the south side of that building were to turn their heads at a sharp angle and look west, then they would have a partial view of our property, although, again, there are some smaller trees that would partially obstruct their view.

What I am trying to indicate, is that there is no one who can honestly say that the condition of our property is affecting them in a detrimental manner. This is why, I would suggest, there were no complaints all last summer. Why there appears to have been a complaint now, I do not know. (I don't know if there is any connection with the discontinuance of the Stonegate Community Gardens. When I came, I indicated to them for a number of reasons, that while they could finish their 2007 season, they should look for an alternative site for 2008.)

Surrounding terrain. Most of the eastern part of our property is a wooded area and ravine. Towards the northern end (the area in question), the wooded area becomes primarily grass and other vegetation area, with a few smaller trees. There is a ravine/slope leading up to the paved parking area behind the Rectory. The area in question certainly has grass and weeds, but it also has other vegetation. I am no expert, but there are wild carrots, clover, flowers and other vegetation growing there. *To me, in the context of the surrounding area and overall natural, wooded setting, it is legitimate to consider this as a natural garden area, and so exempt from the grass cutting provisions of the by-law.*

Safety issue. There is a fairly steep slope/ravine at the back. It is difficult enough just to walk down this slope. To have to cut the grass would be difficult. I feel that there is a safety issue involved for anyone who would have to cut the grass on the slope/ravine area.

Timing issue. While I genuinely believe it is appropriate to leave the growth as a natural area, in the event my request is not approved, I would ask for a reasonable amount of time to address the issue. I received your notice around 4:30 p.m. on May 20, and the deadline given me was May 26. The landscaping firm I use has many clients, and this time of the year is very busy for them. First of all, I would have to ask them if they were willing to perform this work, given the safety issues involved. If they did not feel they could undertake it, then I would have to find an alternative firm. If they did agree, then they would have to fit this in to their busy schedule, and they might not be able to do it within a week, given their other customers. A notice of 6 days may be reasonable for a typical residential home, such as my neighbour's at 279 Park Lawn. But

the area in question here is much larger, and includes a ravine. It would take much more time to cut the grass on this large property, than it would for a typical back yard of a typical house. So my firm would need to fit this additional difficult work into their busy schedule. So in the event my request for exemption is not granted, I would request a 12 day period to have it cut.

“Cuttings” issue. The notice states that “all cuttings are to be removed”. I discussed this issue with the Municipal Standards Officer (Mr. Shumelda) on the phone. I mentioned that this is directly opposite to the policy of the City of Toronto which they have been widely advertising in the media for several years now, advising residents to leave their cuttings on their lawn. On the City of Toronto Website, it states the following: “Grasscycle this season! The City has always encouraged residents to “grasscycle” (leave grass clippings on the lawn).” (They go on to extol the virtues of leaving clippings on the lawn, and point out since 2001 the City no longer collects clippings from garbage collection.) The Officer indicated to me that the cuttings could indeed be left on the lawn where they were cut, so long as they were not collected and placed in a pile. I am simply raising this issue in writing for the record, in the event my request for an exemption is not approved, and we need to cut the grass. We would therefore plan to leave the cuttings where the grass was cut, as indicated by the Officer above.

Conclusion. The by-law in question as drafted cannot anticipate every situation that might arise. It makes sense in a typical residential street where there is a row of houses, and someone is letting their grass grow excessively. The situation behind the Church here is unique. We have a large, natural growth, wooded area, which tapers off to a grassy and other vegetation corner at the northern end. Our only single family residential neighbour has a back yard that also has long grass and weeds, and is also being kept in fairly natural, untrimmed manner. The apartment residents cannot really see this area, either because of the large trees that block their view, or the distance and angle involved. There were no complaints all last summer—no one seemed to have been bothered by this. So I really feel that in the unique context of this setting, it is appropriate to consider this a natural growth area, and grant us an exemption.

[Please note that I will be away on a priests’ retreat from Monday, May 26, to Thursday, May 29, inclusive.]

With thanks for your consideration of this request,

Yours sincerely,



(Rev.) Edward Koroway
Pastor

c.c. Councillor Peter Milczyn
c.c. Planning and Properties, Archdiocese of Toronto

Attachment 2: Photos of Invasive Plants



Dog Strangling Vine



Garlic Mustard

Attachment 3: Photo showing the Steep Grassy Slope of the Natural Garden

