
Licensing and Standards Committee

Meeting No. 13
Meeting Date Friday, May 9, 2008
Start Time 9:30 AM
Location Committee Room 1, City Hall

Contact Dela Ting, Acting Administrator
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Licensing and Standards Committee

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Meeting Date	Friday, May 9, 2008	Phone	416-397-7769
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LS13.3	Adopted			Ward: All
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Alternatives to Four-sided Swimming Pool Enclosures

City Council Decision

City Council on May 26 and 27, 2008, adopted the following motions:

1. The current provisions in Toronto Municipal Code Chapter 447, Fences with respect to four-sided pool enclosures not be amended to include any alternative safety devices.
2. Individuals be able to request an exemption from the four-sided pool enclosure provision, when it would not be practicable, because of a disability, as defined in the Ontarians with Disabilities Act, of an occupant of the building, to provide access in accordance with the requirements of the by-law.
3. When an exemption is granted, conditions considered appropriate by City Council to prevent a young child gaining access to the pool area unsupervised, be imposed.
4. When the need for an exemption ceases to exist, the pool enclosure be reinstated to comply fully with the provisions of the Chapter.
5. Subsection 447-3C(3)(b) of Toronto Municipal Code Chapter 447, Fences be amended by adding the word “ground” before the word “floor” so that the revised provision reads: “If the wall of any building, or portion thereof, forms part of the pool enclosure: ... (b) no window in the wall which is less than 1.5 metres above ground floor level shall be capable of being opened more than 100 millimetres unless a guard is permanently installed on the window to prevent the passage of a spherical object having a diameter of more than 100 millimetres through the window”.
6. Subsection 447-3C(3.1) of Toronto Municipal Code Chapter 447, Fences be amended by deleting the word “only” and the period at the end of the clause and immediately following adding, “and any existing fence if a substantial portion of it is demolished or

removed or if it is in such a state of disrepair that it is not practical to repair it,” so that the full subsection reads: “Subsection 447-3C(3)(a) applies to pool enclosures for which a pool enclosure permit was issued more than 30 calendar days after the enactment of that Subsection, and any existing fence if a substantial portion of it is demolished or removed or if it is in such a state of disrepair that it is not practical to repair it”.

7. Subsection 447-3E(3) of Toronto Municipal Code Chapter 447, Fences be amended by replacing the word “all” with “any”, the word “and” after “door” with “or”, and by replacing the text after the word “window” with the phrase “that is located on the access level of the building, and that has a line of sight to the pool, and the materials used must comply with the provisions of this Chapter”, so that the amended subsection now reads:

“E. Construction standards.

- (3) Every fence and gate used as part of a swimming pool enclosure, which forms the part of the enclosure that separates the pool from any residential building on the same property, shall be constructed of open mesh chain-link fence or equivalent open fence construction that does not restrict visibility of the pool from any door or window that is located on the access level of the building, and that has a line of sight to the pool, and the materials used must comply with the provisions of this Chapter. [Added 2007-11-20 by By-law No. 1240-2007]

subsection 447-3E(4) be added as follows:

- (4) With respect to subsection 447-3E(3), nothing shall be erected, planted or otherwise placed in such a way that the visibility of a pool is restricted from any door or window located on the access level of a residential building on the same property, and that has a line of sight to the pool;”.
8. Municipal Licensing and Standards, in conjunction with Toronto Building and Toronto Public Health develop an awareness and education campaign respecting the pool enclosure standards and pool safety.
 9. This report be forwarded to the Board of Health for information.
 10. Staff be directed to take any necessary actions to implement and otherwise put into effect the above recommendations.

(April 23, 2008) Report from Executive Director, Municipal Licensing and Standards

Committee Recommendations

The Licensing and Standards Committee recommends to City Council that:

1. The current provisions in Toronto Municipal Code Chapter 447, Fences with respect to four-sided pool enclosures not be amended to include any alternative safety devices;

2. Individuals be able to request an exemption from the four-sided pool enclosure provision, when it would not be practicable, because of a disability, as defined in the Ontarians with Disabilities Act, of an occupant of the building, to provide access in accordance with the requirements of the bylaw;
3. When an exemption is granted, conditions considered appropriate by City Council to prevent a young child gaining access to the pool area unsupervised, be imposed;
4. When the need for an exemption ceases to exist, the pool enclosure be reinstated to comply fully with the provisions of the Chapter;
5. Subsection 447-3C(3)(b) of Toronto Municipal Code Chapter 447, Fences be amended by adding the word "ground" before the word "floor" so that the revised provision reads: "If the wall of any building, or portion thereof, forms part of the pool enclosure: ... (b) no window in the wall which is less than 1.5 metres above ground floor level shall be capable of being opened more than 100 millimetres unless a guard is permanently installed on the window to prevent the passage of a spherical object having a diameter of more than 100 millimetres through the window";
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subsection 447-3E(4) be added as follows:

- (4) With respect to subsection 447-3E(3), nothing shall be erected, planted or otherwise placed in such a way that the visibility of a pool is restricted from any

door or window located on the access level of a residential building on the same property, and that has a line of sight to the pool;"

8. Municipal Licensing and Standards, in conjunction with Toronto Building and Toronto Public Health develop an awareness and education campaign respecting the pool enclosure standards and pool safety;
9. This report be forwarded to the Board of Health for information; and
10. Staff be directed to take any necessary actions to implement and otherwise put into effect the above recommendations.

Committee Decision Advice and Other Information

The Licensing and Standards Committee requested the (Acting) Executive Director, Municipal Licensing and Standards, to report to Community Councils outlining a protocol for dealing with exemptions that may be permitted.

Financial Impact

There are no financial implications as a result of the adoption of the recommendations of this report.

Summary

Staff assessed a number of alternatives to four-sided pool enclosures as part of its direction from Council to look at self-closing, self-latching devices. Although the safety measures adopted by different jurisdictions varies widely, in general, staff still believes that four-sided fencing offers the greatest level of protection to children less than six years old. This view is not only supported by the assessment conducted by City staff, but also by a number of academic reviews and studies, as well as other publications from various governments.

Any standard adopted into the bylaw needs to be enforceable in order to prove successful. For this reason, staff discourages the adoption of any standard that may make inspections more difficult to conduct. Furthermore, staff recommends that, when the current four-sided standards are not practicable for the accessibility or health and safety of an occupant who is disabled, an exemption process be made available.

Further, staff recommends that the four-sided standard be applied to any existing fence that is fully or substantially replaced or that is in such a state of disrepair that it is not practical to repair it, and that window devices on windows facing a pool area only be required for the ground floor. Finally, staff recommends the implementation of a public awareness/education campaign with respect to the new standards and pool safety in general.

This report was prepared in consultation with Toronto Building, Legal Services, Toronto Public Health, Emergency Medical Services and Toronto Fire Services. In addition, staff consulted with members and representatives of the swimming pool and hot tub, landscaping, and fencing industries, as well as a number of safety advocate groups.

Background Information (Committee)

Staff Report from Executive Director, Municipal Licensing and Standards
<http://www.toronto.ca/legdocs/mmis/2008/ls/bgrd/backgroundfile-12641.pdf>

Communications (Committee)

(May 9, 2008) e-mail from Dr. Bruce Minnes, Emergency Physician and Associate Clinical Director, The Hospital for Sick Children (LS.New.LS13.3.1)

(February 25, 2008) letter from Dr. Julia Petrenko, Research Assistant in emergency Department, The Hospital for Sick Children (LS.New.LS13.3.2)

(May 8, 2008) letter from Tony DiGiovanni, Executive Director, Landscape Ontario Horticultural Trades Association (LS.New.LS13.3.3)

(May 9, 2008) submission from David B. Huxtable, Mursatt Chemicals Limited (LS.New.LS13.3.4)

(May 9, 2008) e-mail from Dr. Bruce Minnes, Emergency Physician and Associate Clinical Director, The Hospital for Sick Children (LS.New.LS13.3.5)

(May 9, 2008) submission from Barbara Byers, Public Education Director, Lifesaving Society (LS.New.LS13.3.6)

Speakers (Committee)

Barbara Byers, Public Education Director, Lifesaving Society Ontario (Submission Filed)

David Huxtable, Pool and Spa Council of Canada

Edward Gibbs, Pool and Spa Council of Canada

Dr. Julia Petrenko, The Hospital for Sick Children

Robert Pagliaro, Canadian Pool and Spa Council

LS13.4	Adopted			Ward: All
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Review of Applications to be Included in the City's List of Approved Professional Holistic Associations

City Council Decision

City Council on May 26 and 27, 2008, adopted the following motions:

1. The following holistic association be included in Toronto Municipal Code Chapter 545, Licensing, Appendix L, and that this association be recognized as a PHA for the purposes of licensing holistic practitioners and owners:
 - a. Zen Shiatsu Society of Canada.
2. The City Solicitor be directed to prepare the necessary bill to give effect to the recommendations in this report, effective immediately.
3. All other appropriate City officials be authorized and directed to take the necessary actions to give effect thereto.

Public Notice

(April 10, 2008) Report from Executive Director, Municipal Licensing and Standards

Committee Recommendations

The Licensing and Standards Committee recommends to City Council that:

1. The following holistic association be included in Toronto Municipal Code Chapter 545, Licensing, Appendix L, and that this association be recognized as a PHA for the purposes of licensing holistic practitioners and owners:
 - a. Zen Shiatsu Society of Canada.
2. The City Solicitor be directed to prepare the necessary bill to give effect to the recommendations in this report, effective immediately; and
3. All other appropriate City officials be authorized and directed to take the necessary actions to give effect thereto.

Public notice has been given in a manner prescribed in the Toronto Municipal Code Chapter 162, Notice, Public.

Financial Impact

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

Summary

To recommend to the Licensing and Standards Committee an additional Professional Holistic Association (PHA) that meets the City of Toronto's criteria with respect to the licensing approval of PHAs.

Staff received application from the Zen Shiatsu Society of Canada. This association was evaluated on three main criteria: (a) Governance; (b) Membership and Membership Services; and (c) Ethics and Discipline.

Based on the submitted application, this association meets the criteria required to be included in the City of Toronto's Municipal Code Chapter 545, Licensing, Appendix L, as a PHA.

Background Information (Committee)

Staff Report from Executive Director, Municipal Licensing and Standards
(<http://www.toronto.ca/legdocs/mmis/2008/ls/bgrd/backgroundfile-12642.pdf>)

LS13.8	Adopted			Ward: All
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2007 Annual Report of Toronto Licensing Tribunal

City Council Decision

City Council on May 26 and 27, 2008, adopted the following motion:

1. The 2007 Annual Report of Toronto Licensing Tribunal, adopted at its Business Meeting held on November 22, 2007, be forwarded to City Council for information.

(May 1, 2008) Report from Richard Butts, Deputy City Manager

Committee Recommendations

The Licensing and Standards Committee recommends that:

1. The 2007 Annual Report of Toronto Licensing Tribunal, adopted at its Business Meeting held on November 22, 2007, be forwarded to City Council for information.

Committee Decision Advice and Other Information

The Licensing and Standards Committee requested:

1. the City Solicitor to review the apparent conflict between provisions of Toronto Municipal Code Chapter 545-3B(2) which establishes the Toronto Licensing Tribunal as a quasi-judicial arm's length body, with a requirement under Section E (Annual Report) to report annually to the Licensing and Standards Committee, and the interpretation of the Relationship Framework, Section C; and
2. Deputy City Manager, Richard Butts to meet with the Chair, Licensing and Standards Committee and the City Solicitor, to bring back a recommendation to the Licensing and Standards Committee, at its next meeting on June 6, 2008 and/or prior to the transmittal of the 2008 Annual Report of the Toronto Licensing Tribunal.

Financial Impact

This report will have no financial impact beyond what has already been approved in the current year's budget.

Summary

The Relationship Framework governing the Toronto Licensing Tribunal sets out the matters to be discussed in the Annual Report from the Toronto Licensing Tribunal to Council.

Attached as Appendix "A" is the 2007 Annual Report of Toronto Licensing Tribunal, adopted at its Business Meeting held on November 22, 2007.

Background Information (Committee)

Report from Richard Butts, Deputy City Manager

<http://www.toronto.ca/legdocs/mmis/2008/ls/bgrd/backgroundfile-12942.pdf>

Communications (Committee)

(May 8, 2008) letter from Carol Shirliff-Hinds Chair, Licensing Tribunal (LS.New.LS13.8.1)

Submitted Friday, May 9, 2008

Councillor Howard Moscoe, Chair, Licensing and Standards Committee