



STAFF REPORT ACTION REQUIRED

Sign By-law Enforcement

Date:	March 20, 2008
To:	Licensing and Standards Committee
From:	Chief Building Official/Executive Director, Toronto Building and Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2008\Cluster B\BLD\CBO Office\BLD2008LS003

SUMMARY

This report provides information respecting the status of sign by-law complaints, investigations and enforcement actions and outlines the roles of Toronto Building and Municipal Licensing and Standards related to enforcing the existing sign by-laws.

The sign permit process, including the way sign permits are issued and signs are inspected, as well as the system for receiving and investigating complaints of non-compliance have been reviewed and improved. All complaints are currently being investigated on an ongoing basis by Toronto Building and/or Municipal Licensing and Standards, and proactive enforcement action is taken where appropriate, including revocation of permits, issuing of Notices of Violation and/or Orders to Comply, and court action. The responsibilities for sign bylaw development, sign variance reports, and inspection/investigation of sign permits and complaints have been more clearly defined.

Toronto Building will be reporting later this year to the Planning and Growth Management Committee on the development of a new harmonized consolidated by-law for signs on private property. In the process of developing the new by-law, consideration will be given to the possible establishment of a billboard tax and the need for increases in permit fees to cover the administration and enforcement of the sign by-law in order to ensure there is sufficient staff to do the necessary inspections and to preserve the integrity of the by-law and permit system in the future.

RECOMMENDATION

1. That the Licensing and Standards Committee receive this report and refer it to the Community Councils together with the respective Sign Investigation Lists attached to this report.

Financial Impact

There are no financial impacts associated with this report.

DECISION HISTORY

At its meeting on November 19 and 20, 2007, City Council considered recommendations from the Licensing and Standards Committee respecting billboards, Item No. LS8.5, together with a confidential attachment to the supplementary report from the City Solicitor dated November 19, 2007.

City Council adopted the following motions directing the Chief Building Official/Executive Director to:

- a. investigate the specific sign locations, as provided by Mr. Rami Tabello and Mr. Jonathon Goldsbie, and report back to the Licensing and Standards Committee in four months;
- b. review the method by which sign permits are issued and recommend changes that will preserve the integrity of the by-laws and the permitting system;
- c. report on what increases to the permit fees will be necessary to hire sufficient staff to properly process the sign applications and ensure that there is sufficient staff to do the necessary inspections to ensure compliance with the Sign By-laws; and
- d. report to the Licensing and Standards Committee on each and every sign that is in violation of the permit issued, and on any actions the Chief Building Official has taken or intends to take.

In addition to the foregoing motions, City Council also adopted the following:

- City Council request that the Licensing and Standards Committee refer the forthcoming report from the Chief Building Official/Executive Director and the Executive Director, Municipal Licensing and Standards to the Community Councils with respect to ongoing inspection enforcement activities in their respective areas.
- City Council receive the supplementary report dated November 19, 2007 from the City Solicitor.

- City Council refer the letter dated August 29, 2007 from Mr. Rami Tabello regarding the interpretation of the City of Toronto Act, Section 110(1) with respect to advertising content to the City Solicitor with a request that she report to the Licensing and Standards Committee with an interpretation as it relates to third party copy on first party signs.

ISSUE BACKGROUND

In the fall of 2006, Toronto Building and Municipal Licensing and Standards (ML&S) began to receive complaints from a group identified as Illegalsigns.ca. This group alleged that many third-party signs had been erected in the City in contravention of the applicable sign by-law/s and that such signs were illegal.

Senior staff of Toronto Building, ML&S and Community Planning met with Mr. Rami Tabello, who represented the interests of the group, to discuss his concerns. City staff considered the matter to be very serious, and therefore Toronto Building and ML&S actively worked together to develop a protocol for receiving and investigating the complaints and taking appropriate enforcement action on illegally installed signs. To date, the City has received more than 60 individual letters of complaint from Illegalsigns.ca which have identified in excess of 500 alleged illegal signs. The complaints raise issues such as deviations from approved permits, signs erected without permit, and signs that had been erected in contravention of the applicable sign by-law/s.

Complaints initially focussed on properties located in the downtown area of the Toronto and East York District but later included properties within the North York and Etobicoke-York Districts. Mr. Tabello has deputed before each of the three Community Councils with regard to sign by-law variance applications and before the Licensing and Standards Committee where he has raised concerns about the lack of enforcement by the City.

In response to issues raised, the three Community Councils as well as the Licensing and Standards Committee have requested information related to the ongoing enforcement of illegal sign installations. Given that this issue concerns matters affecting each district of the City, this report is directed to the Licensing and Standards Committee prior to referral to the respective Community Councils. City Council has requested that the Licensing and Standards Committee refer this report to the Community Councils with respect to the ongoing inspection enforcement activities in their respective areas.

COMMENTS

Roles of Toronto Building and Municipal Licensing and Standards

Currently there are six separate sign by-laws in force across the City which were passed pursuant to the Municipal Act by the six former municipalities, respectively, prior to amalgamation and which continue to apply to the areas within the respective boundaries

of the former municipalities. While each of these sign by-laws sets out the requirement for permits to be issued for signs on private property, they also contain provisions respecting matters such as the types of signs permitted in various districts/zones, the maximum size and area of signs, and restrictions on the height, location and distance from other signs.

Although the City's sign by-laws provide that permits are required to erect, install, display or alter a sign, the by-laws do not address the structural design characteristics of signs or how signs are erected on or attached to building roofs and walls. The *Building Code Act* and the Ontario Building Code govern the safety requirements of sign installations and require that a building permit be obtained to construct/erect a stand alone type ground sign and to install signs on buildings. The Building Code does exempt certain incidental signs from the requirement for a building permit, such as signs painted directly on a building and traffic signs.

The Chief Building Official (CBO) is responsible for reviewing permit applications for signs and confirming compliance with the applicable sign by-law, the Building Code and other applicable law prior to issuing the permit. On behalf of the Chief Building Official, Toronto Building staff perform these reviews, issue the permits and inspect the installation of the signs to ensure compliance with the applicable sign by-law, the Ontario Building Code, and the approved permit plans.

Complaints received regarding potential non-compliance with issued permits are investigated and enforced by Toronto Building. The nature of these complaints is that the sign(s) erected deviate(s) in some manner from the approved permit plans. These complaints relate to issues such as: the sign is erected in a location other than that approved, is located closer to another sign than permitted, is illuminated notwithstanding it was approved as non-illuminated, and/or is larger or located higher than approved. These deviations are investigated and action is taken by Toronto Building where merited, including the issuance of Orders to Comply and/or Notices of Violation to the permit holder (property owner) and the sign company, which in most cases, obtained the permit on behalf of the property owner and erected the sign.

Complaints respecting signs erected or installed without a permit are investigated and enforced by ML&S. Upon inspection and investigation of these complaints, action is taken by ML&S where warranted, including the issuance of Notices of Violation to the property owner and the sign company for signs erected without a permit. Apart from these complaints, staff of ML&S have also identified through proactive inspection several signs that necessitated enforcement action.

Occasionally investigations conducted by Toronto Building reveal that, notwithstanding the fact that Toronto Building issued a permit for a sign at a property in question, the sign erected is a completely different sign type or so grossly deviates from that approved (i.e. in terms of its size, height and location) such that it cannot be said that the sign installed is authorized by the permit and instead is more appropriately characterized as a sign

without permit. In such instances, the matter is referred to ML&S for investigation and appropriate enforcement action related to the erection of a sign without a permit.

This situation has most frequently arisen where permits were issued by Toronto Building pursuant to the former City of Toronto sign by-law authorizing mural signs (defined as signs painted directly on the face of the wall of a building) but signs made of a vinyl material have been affixed to the walls of buildings in lieu of painted signs. Of the complaints received by the City, this type of complaint is the most prevalent. In fact, ML&S has been actively investigating hundreds of such complaints. Given the volume of said complaints, ML&S has dedicated specific resources in the Toronto and East York District to investigate and take enforcement action where appropriate.

Further, in many of these cases, in addition to any enforcement action taken by ML&S, the Deputy Chief Building Official has revoked the original permit on the basis that the sign which the permit authorized (namely, the mural sign) was not erected within six months of permit issuance.

Recently, the Chief Building Official/Executive Director, Toronto Building, the Executive Director, ML&S and the Chief Planner have agreed to consistently assign the roles and responsibilities of the three divisions relating to signs across all districts. Historically, Toronto Building generally received complaints relating to signs erected without permit, while ML&S received complaints relating to temporary and mobile signs. Given the volume of sign complaints, the desire to streamline the processing of such complaints, and the fact that the majority of sign complaints relate to signs without permits, it has been agreed that ML&S will become the first point of contact for all sign complaints so that a determination can be made as to whether there is a by-law contravention, whether a permit exists, and whether the complaint relates to a deviation from an issued permit or to a sign installed without a permit. The complaint will then be investigated by ML&S or referred to Toronto Building as appropriate.

In North York District, Toronto Building has until recently been responsible for investigating all sign complaints. In order to ensure that the division of roles is uniform and consistent across the City, the responsibility for investigating complaints respecting signs erected without a permit in North York has been transferred from Toronto Building to ML&S.

To facilitate this change and to support the approach of ML&S as the first point of contact, all existing complaint files relating to signs without permits and signs that have deviated from approved permits have been transferred from Toronto Building to ML&S.

Finally, in the Toronto and East York District and the former City of York, the responsibility for reviewing applications for sign by-law variances and preparing reports with respect thereto currently rests with City Planning. This differs from the practice in the other districts where Toronto Building prepares these reports. In order to ensure that the division of roles and responsibilities is uniform and consistent across the City, Toronto Building will soon assume the responsibility for reviewing applications for sign

by-law variances and preparing reports with respect thereto in the Toronto and East York District and the former City of York. Toronto Building will continue to be responsible for permit review, issuance and inspection of sign permits across the City.

Where appropriate, staff resources have been or will be transferred between Divisions to rationalize responsibility for the service.

Improvements to the Permit and Inspection Systems

While investigating illegal sign complaints, Toronto Building identified several instances where permits for third-party signs had been issued on the basis of false, mistaken or misleading information provided by the applicant, which in almost all cases, was the sign company which would erect the sign and lease the space for advertising purposes. For example, the sign by-law for the former City of Toronto contains a requirement that a third-party sign proposed to be located within a commercial/residential district (most of the downtown area) must be located a minimum distance of 60 metres from other third-party signs. Previously, Toronto Building relied on the submission of a written declaration by the applicant that the proposed sign would comply with the distance requirement. Upon investigation of complaints, in many cases, it has been confirmed that notwithstanding the signed declarations to the contrary, the signs were in fact located closer to other third party signs than permitted. In many instances, the distance requirement as well as the actual size and height of an installed sign are very difficult for a Building Inspector or Municipal Standards Officer to confirm on site. These instances usually arise where the signs are located on the roofs of buildings, on walls of large buildings or on structural supports that extend high above the ground.

Toronto Building has introduced improvements to the application intake, plan review and inspection processes to address the problem identified above. While we still must rely on the information provided by a permit applicant, we have begun to require the submission of more extensive corroborating documentation particularly with respect to the distancing requirements set out in the by-law. In order to confirm compliance with the distancing requirements, a survey prepared by an Ontario Land Surveyor (OLS) that certifies the actual distances to nearby signs is now required. At the time of inspection of the sign, the inspector will request additional confirmation from a professional Architect, Engineer, OLS or other reliable professional that the sign has been installed in accordance with the approved permit plans.

As described above, another common infraction that has been identified through the investigation of complaints is that while many permits had been issued for mural signs (signs painted directly on the wall of a building) pursuant to the sign by-law for the former City of Toronto, sign companies have erected signs made of vinyl material and affixed them to the walls of buildings in lieu of painted signs. It has been the City's position that these signs constitute fascia or wall signs which are subject to different regulations in the by-law from those which apply to mural signs. Accordingly, many of these signs as erected would not comply with the provisions of the by-law unless minor variances to the by-law were obtained. To address this problem inspectors have been

reminded about the differences between sign types and are more vigilant in confirming that the type of sign erected is consistent with what was approved. The building inspectors and ML&S officers now take digital photographs of the sign installed and attach them to the electronic permit file/folder which is readily available to staff in both Toronto Building and ML&S. This information has proved to be invaluable when investigating complaints that are received after the initial sign installation. When violations are identified, appropriate enforcement action is taken.

Improvements have also been made to the Integrated Business Management System (IBMS), the computer tracking system used by Toronto Building and ML&S for sign recording and managing electronic data associated with all sign permits and complaint files, including inspections and investigations. The system now clearly identifies whether the permit issued relates to a first-party or third-party sign and identifies the proposed area of the sign to be erected. These changes facilitate better tracking and investigation of third-party signs and the generating of reports.

Enforcement Strategy

Toronto Building and ML&S developed a coordinated strategy with advice from Legal Services for dealing with the many complaints the City has recently received. Depending on the specifics of the complaint, the steps currently followed by Toronto Building and ML&S when investigating, may include:

1. Recording the complaint and creating an electronic folder in IBMS;
2. Making a site visit to investigate the complaint, determining whether there is a violation, and taking digital photos of the sign;
3. Issuing a Notice of Violation pursuant to the applicable sign by-law and/or an Order to Comply pursuant to the *Building Code Act* to the owner and sign company if non-compliance is determined;
4. Following up with another site visit where appropriate to confirm whether the sign has been brought into compliance;
5. Issuing a demand letter/s to the owner and sign company warning of court action and/or, where the applicable by-law permits it, removal of the sign at the owner's expense;
6. Commencement of court action with charges being laid against the owner and the sign company and/or the removal of the sign by the City.

Toronto Building has also been very active inspecting outstanding sign permits. In many cases, older files have been cleared as compliant or closed, permits have been revoked due to inactivity, and/or enforcement action has been taken, as described above. Due to the extensive efforts of both Toronto Building and ML&S, many formerly illegal signs have been brought into compliance by the owners and/or sign companies by obtaining required variances to the by-law, obtaining revision permits, modifying the sign to comply, and voluntarily removing illegal signs.

The following tables summarize some of the progress made by Toronto Building and ML&S since January 2007:

TORONTO BUILDING ACTIVITY
January 1, 2007 – March 17, 2008

Complaints Received (Locations)	415
Permits Revoked	84
Permits Inspected and Closed	1,555
Notices of Violation Issued	100
Orders to Comply Issued	78
Preliminary Project Applications	298
Minor Variance Applications	234
Sign Permit Applications	1,081
Sign Permits Issued	896
Prosecutions Initiated	11

ML&S ACTIVITY
January 1, 2007 – March 17, 2008

Complaints Received (Locations)	3,657
Notices of Violation Issued	859
Prosecutions Initiated	90

While the City’s existing sign by-laws have varying provisions respecting enforcement, they are workable and adequately address illegal signs. The new harmonized consolidated by-law is currently in the early stages of development. During the consultation stages, the new Sign By-law Project Team will examine best practices to ensure the new by-law contains the most effective tools to obtain compliance regarding illegal signs.

Current Status of Enforcement of Sign Complaints

The attached charts reflect the current status of enforcement action that has been taken by Toronto Building and ML&S, respectively. They include information regarding each sign complaint received from Illegalsigns.ca, as well as signs that have been proactively enforced by staff of ML&S.

City Council, at its meeting on November 19 and 20, 2007, requested that the Licensing and Standards Committee refer this report to the Community Councils with respect to ongoing inspection enforcement activities in their respective areas. The information in the attached charts has been divided by district so that it can be easily provided to the appropriate Community Council as necessary. Illegalsigns.ca have not submitted

complaints related to the Scarborough District and as such there are no charts attached relating to this district.

Legal Challenges

As a result of recent enforcement actions taken by both Toronto Building and ML&S, several of the sign companies have retained legal counsel who have taken issue with the manner in which the City interprets and applies specific provisions in its sign by-laws in respect of a number of issues. The dispute may pertain to a particular sign or to a category of signs as a whole. The City has gone to great lengths to give due consideration and to respond to each issue raised and to examine each case on its particular facts as the City wants to ensure that any action it takes is reasonable and appropriate in the circumstances. However, it is always open to a sign company or any other party to challenge a position taken by the City.

One of the issues in dispute pertains to the City's interpretation and application of the former City of Toronto sign by-law to vinyl signs affixed to the walls of buildings as described above. The City's actions have been challenged by the sign companies and are the subject of a court application scheduled to be heard in the Superior Court of Justice in May of 2008. While the City will be defending its actions and its interpretation of the by-law in court, it is hoped that the court's decision will in any event bring finality to the issue. Given the upcoming court application, trials scheduled in the Ontario Court of Justice on charges laid by ML&S in connection with said signs have been adjourned on consent of the City pending the outcome of the court application.

Harmonized Sign By-law Project

Toronto Building is now leading the development of a new consolidated sign by-law to replace the existing six sign by-laws. Signs throughout the City are regulated according to a range of criteria including sign type, zoning, land use, size, location and distance from other signs. Each by-law has differences in approach, content and terminology.

The development of a new harmonized by-law for signs on private property will not be limited simply to the harmonization of regulations. The nature of signs and the sign industry itself have changed considerably since the original by-laws were enacted. The new by-law development project will be driven by the City's public realm objectives, consistent with the City's new Official Plan. It will also address the range of signs enabled by new technologies, the City's environmental goals, and the promotion of energy efficiency.

The by-law will also address issues related to sign approval and enforcement processes including the allocation of responsibilities in these areas and a new fee structure to ensure adequate resources are maintained to ensure compliance.

Toronto Building has obtained the necessary budget approval for the project and has begun implementation of the work plan. A Project Manager, reporting to the Chief

Building Official/Executive Director, has been hired to manage the project through the development stages, which will include consultation with stakeholders, including City Councillors, the public and sign industry representatives. A Steering Committee, comprising senior staff from Toronto Building, ML&S, City Planning, Transportation Services, City Beautiful and Economic Development will work with the Project Manager to provide policy direction and advice. Additional reports to Planning and Growth Management will be provided as the project proceeds.

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SIGNATURES

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ATTACHMENTS

Attachment No.1a and 1b: Sign Investigations List – Toronto and East York District
Attachment No.2a and 2b: Sign Investigations List – North York District
Attachment No.3a and 3b: Sign Investigations List – Etobicoke-York District