



**STAFF REPORT  
INFORMATION ONLY**

**Zoning Amendments – Reverse Slope Driveways in the  
North York Community Council District**

<b>Date:</b>	April 3, 2009
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	8, 9, 10, 15, 16, 23, 24, 25, 26, 33, 34
<b>Reference Number:</b>	

**SUMMARY**

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At its meeting of March 26, 2009, North York Community Council requested that the City Solicitor report directly to the April 6, 2009, meeting of Council on the “feasibility of registering on title a warning clause advising of the dangers posed by below grade garages and absolving the City of Toronto of any liability with regard to the installation of a below grade garage.”

This report advises that the Land Titles system primarily permits the registration only of documents on title involving transfers of title to land, or involving interests in land. Otherwise, documents may be registered on title only where there is specific statutory authority for such registration. In the case of the proposed warning clause regarding dangers posed by below grade garages, there is no statutory authority. Therefore, such notices cannot be registered.

**Financial Impact**

There is no financial impact associated with this report.

**DECISION HISTORY**

On January 13, 2009 at the request of City Council, a statutory public meeting was held before the North York Community Council to consider amendments to the zoning bylaws that are within the boundaries of the North York Community Council District that would restrict reverse slope driveways from being developed in connection with dwelling units that have direct street access. The proposed by-law amendments were passed by City Council on January 28, 2009.

Subsequently, City Council, at its meeting held on February 23, 24 and 25, 2009, passed a motion requesting the repeal of these zoning amendments. The purpose for repealing these bylaws is to give an opportunity to owners of house sites with development proposals including reverse slope driveways to obtain building permits.

City Council's direction from its February 23, 24 and 25, 2009 meeting also requested the reinstatement of zoning amendments restricting reverse slope driveways and directed North York Community Council to recommend a date on which these new bylaws should be re-enacted.

North York Community Council, at its meeting held on March 26, 2009, held a statutory public meeting under the *Planning Act* to consider a report recommending zoning amendments to regulate reverse slope driveways in the North York Community Council District Boundary. North York Community Council recommends to City Council that the zoning amendments be passed on December 1, 2009.

North York Community Council also requested that the City Solicitor report directly to the April 6, 2009 meeting of Council on the "feasibility of registering on title a warning clause advising the dangers posed by below grade garages and absolving the City of Toronto of any liability with regard to the installation of a below grade garage".

## **COMMENTS**

The Land Titles system permits the registration of documents on title involving transfers of title to land, or involving interests in land, for example mortgages and easements. Otherwise, documents may be registered on title only where there is specific statutory authority for such registration. The proposed warning notice would not constitute a transfer or dealing with an interest in land. Nor is there statutory authority to register the notice.

For a dwelling which is being built in conformity with all zoning requirements, no other *Planning Act* approvals (minor variance, rezoning, site plan, plan of subdivision) are typically required. Under the *Building Code Act*, the Chief Building Official is required to issue a building permit where an application complies with all "applicable law" as defined in the Regulation. The requirement to register a warning clause regarding reverse slope driveways is not considered "applicable law", and thus cannot be required as a condition of building permit issuance.

The Ministry of Consumer and Commercial Relations has issued Bulletin 91033 entitled "Registration Against Title: Environmental Warnings/Restrictions". A warning clause respecting a below grade garage could be considered to be an Environmental Warning or Restriction. This Bulletin provides as follows:

"Environmental warnings, even if drafted in the form of a restriction, are not title-related and are not acceptable for registration on title as separate documents. An

environmental warning or restriction would be a notification of or an obligation to notify a potential purchaser of some environmental concern such as: noise levels, water quality, sewage disposal, impending construction, maliferous odours, pollutants (chemicals, radiation, radon gas, floodplains, wetlands, etc.).”

If environmental warnings or restrictions are included in a document otherwise acceptable for registration, the Bulletin states that the Land Registrar will refuse to register the document as containing non title-related material, except in four situations:

- a) subdivision agreements or agreements required as a condition of consent under the *Planning Act, 1983*;
- b) agreements of purchase and sale;
- c) certificates of approval respecting waste management systems and waste disposal sites, and certificates of approval respecting private sewage disposal systems; or
- d) transfers/deeds, only if required pursuant to a subdivision agreement registered prior to January 1, 1988.

The Bulletin further states that the environmental warnings or restrictions may not be:

- a) registered as separate documents on title;
- b) included in condominium declarations;
- c) included in site plan agreements section 37 agreements or agreements regarding a Community Improvement Plan; and
- d) included in a certificate of severance consent under the *Planning Act*.

As a result of the above directives, these types of warnings can only be included in an agreement made under subsection 50(6) (subdivision agreement), or subsection 52(2) (consent to sever agreement) of the *Planning Act*. There are currently no applications in process for residential subdivisions within the boundaries of the former North York. Further, once the zoning by-laws are re-enacted to restrict below grade garages, it would not make sense to allow an exception to the prohibition that would be considered by such a warning to include this type of warning in a subdivision agreement affecting lands for which the zoning by-law does not allow below grade garages.

## **CONCLUSION**

The City is not permitted to register, as a separate document on title to a particular property, a warning notice regarding below grade garages. In limited situations, namely

subdivision agreements and consent agreements, it can include this kind of warning in the agreement; however, this is not being recommended for the reasons set out above.

## **CONTACT**

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## **SIGNATURE**

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