

Motion Controlled Apartment Building Corridor Lighting

Date:	August 24, 2010
To:	City Council
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2010\Cluster B\MLS\Cc10027

SUMMARY

The purpose of this supplementary report to City Council is to comment on a motion adopted at the Licensing and Standards Committee meeting of August 13, 2010, regarding a notification and inspection methodology with regard to the installation of motion sensor controlled lighting in buildings in the City of Toronto.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. this report be received for information purposes only.

Financial Impact

There are no financial impacts beyond what has already been approved in the current year's budget.

DECISION HISTORY

In December 2008, the Executive Director, Municipal Licensing and Standards was approached by representatives of the apartment building industry, with a request that, as the Ontario Building Code now permits new construction to include motion sensor controlled lighting in apartment building common areas, the Toronto Municipal Code, Chapter 629, Property Standards, which is the standard to which apartment buildings have to be maintained, be amended to also permit motion controlled lighting.

At its meeting of August 13, 2010, the Licensing and Standards Committee considered a report from the Executive Director, Municipal Licensing and Standards dated July 29, 2010, (see link below) regarding a proposed amendment to the Toronto Municipal Code,

Chapter 629, Property Standards, regarding provisions pertaining to the utilization of motion sensor controlled lighting.

<http://www.toronto.ca/legdocs/mmis/2010/ls/bgrd/backgroundfile-32586.pdf>

The Licensing and Standards Committee adopted the following motion directing that:

1. the Licensing and Standards Committee submits this matter to City Council without recommendation, and;
2. the Licensing and Standards Committee requested the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to submit to City Council a supplementary report containing an additional recommendation on methods by which interested stakeholders can be notified when this lighting system is implemented and the manner in which it will be monitored on an annual basis.

COMMENTS

Motion Sensor Controlled Lighting Installation Notification

Legal Services has advised that the City does not have the ability to pass a by-law requiring notification of motion sensor controlled lighting retrofits. There is no authority to include this notice requirement in the City of Toronto Municipal Code, Chapter 629, Property Standards, as it is not a standard for the maintenance and occupancy of property as described in section 15.1 of the *Building Code Act, 1992*. Also, based on the evidence to date, the limitations on the City's general powers would not permit City Council to enact a by-law under section 8 of the *City of Toronto Act, 2006* ("COTA") to simply require all property owners to provide this type of notice.

Legal Services further advised that while the City has broad powers to pass by-laws under section 8 of COTA, there are also general limitations on using those powers as set out in other provisions of COTA and judicial interpretations of the scope of these powers. For example, the proposed regulation must have a municipal purpose, as described by the courts, and not conflict with other legislation, which includes frustrating the purpose of the legislation. These requirements have not been met. For example, as noted below, municipal health and safety concerns are already met through the building permit and fire safety plan processes, the proposed provisions to be added to Municipal Code Chapter 629 and the enforcement processes under the *Building Code Act, 1992* and the *Fire Protection and Prevention Act, 1997*.

The *Building Code Act, 1992*, requires a building permit for any material alteration to a building. As the Code regulates lighting, a building owner is required to obtain a building permit prior to undertaking a lighting retrofit program.

Annual Monitoring/Inspection of Motion Sensor Controlled Lighting

If a building permit is obtained for a motion sensor controlled lighting retrofit in a building, upon clearance of the required building permit the motion sensor lighting system must be maintained as per the provisions of the Ontario Fire Code (OFC). The OFC governs the requirements for, and the maintenance of, illumination for the safe evacuation of occupants, but does not specify an inspection interval for Maintenance and Lighting for Exits in §2.7.1.7.(2) of the Code, just that lighting provided for illumination shall be maintained. The OFC further mandates that a building owner must develop and review on an annual basis a Fire Safety Plan (FSP) for the building.

An annual review of the FSP will assist in ensuring that it takes account of changes in the use and other characteristics of the building. Common area lighting is a characteristic of the building and provisions for maintenance and testing would be required to be reflected in the FSP. The OFC also requires that all records of the testing and inspection shall be retained at the site for a minimum of two years and be readily available to the Chief Fire Official of the municipality. Should a building fail to demonstrate the adequate operation of the motion sensor controlled lighting system, or fail to provide the required records an inspection notice would be issued by Toronto Fire Services. In the case of lighting retrofits TFS would have to first be made aware of the retrofit and then could ensure that any maintenance requirements or maintenance schedules, as specified by the design, were added to the FSP.

Monitoring of compliance with property standards requirements is generally done on a complaint basis. If a building uses what are called "motion sensor controlled switches" for lighting systems in their buildings an inspector would not be able to ascertain this based on a visual inspection. This is due to the fact that these types of motion sensor switches are triggered by motion and, under the proposed amendment, the motion sensor controlled switch must be designed for fail-safe operation so that if the motion sensor controlled switch fails, the electrical fixtures activates and the lights controlled by this switch become illuminated. If an entire area is in the darkness then both systems have failed.

MLS would need to devise an inspection protocol for motion sensor controlled lighting retrofits due to the various motion sensor technologies available to building owners installing these types of systems in their buildings. If annual inspections of buildings that have installed motion sensor controlled lighting as retrofits becomes a legislated requirement, and the vast majority of buildings eventually adopt the technology, MLS would need to reassign, at a minimum, four Municipal Standards Officers in order to implement such an inspection regime.

This report was prepared in consultation with Toronto Building, Toronto Fire Services and the City Solicitor.

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SIGNATURE

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