



## STAFF REPORT ACTION REQUIRED

### Multiple Complaints, Vexatious Complaints and Complaints from Feuding Neighbours

<b>Date:</b>	November 20, 2013
<b>To:</b>	Licensing and Standards Committee
<b>From:</b>	Executive Director, Municipal Licensing and Standards
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2013\Cluster B\MLS\LS13022

#### SUMMARY

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The purpose of this report is to respond to City Council's request to consider a policy on how City staff can deal with multiple complaints from one person, complaints that appear to be vexatious, complaints from feuding neighbours, and to waive any appeal fees for such complaints.

The request from City Council was prompted by an incident in Ward 38, Scarborough Centre, where one resident filed 59 complaints against neighbours for various property standard by-law infractions.

Municipal Licensing & Standards (ML&S) staff reviewed the details of the incident and determined that over half of the complaints lodged by the individual were valid contraventions of the City's by-laws for which orders were appropriately issued. Waiving the associated appeal fees for these matters therefore would not be appropriate.

Nevertheless, ML&S staff are cognizant of the challenges posed by multiple complaints, vexatious complaints, and complaints from feuding neighbours, and are in agreement that reinforcing internal divisional procedures to staff as well as the process for which they may escalate such complaints to senior management, would be beneficial. Additionally, educating the public on the City's by-laws through the daily work of ML&S enforcement staff and through improvements to ML&S' website, would support compliance.

#### RECOMMENDATIONS

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**The Executive Director, Municipal Licensing and Standards recommends that:**

1. The Licensing and Standards Committee receive this report for information.

## **Financial Impact**

There is no financial impact expected from this report beyond what has already been approved in the current year's budget.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **DECISION HISTORY**

At its meeting of July 16, 17, 18, and 19, 2013, City Council requested the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to report back to the Licensing and Standards Committee on a policy directing how City staff can deal with multiple complaints from one person, complaints that appear to be vexatious, and complaints from feuding neighbours, and such report to also include the feasibility of authorizing the Executive Director to waive appeal fees when in the opinion of the Executive Director that complaints are vexatious in nature.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.MM37.9>

## **ISSUE BACKGROUND**

The Investigation Services and By-law Enforcement units of the Municipal Licensing and Standards (ML&S) division enforces the provisions of the Toronto Municipal Code (Acts, by-laws, and regulations) by responding to complaints from the public and proactively initiating inspections. They conduct inspections and investigations of private property and the public right-of-way, as well as municipally licensed and permitted businesses and premises. Year-to-date, ML&S has received a total of 49,329 investigation requests, which resulted in 60,389 inspections being conducted, the issuance of 9,677 notices of violation and 3,602 orders to comply, and 128 cases where the City took action.

In May 2013, one individual in Ward 38, Scarborough Centre, submitted 59 complaints within a two-week period for various property standard by-law infractions against neighbours living in one Scarborough subdivision. The complaints were received by ML&S and investigations revealed violations for which ML&S issued 34 notices of violation for fences, hedges, long grass, and zoning infractions.

## **COMMENTS**

ML&S is committed to ensuring that all complaints are taken seriously and are investigated in a manner that is timely, courteous, and fair, with appropriate action as required.

Staff recognize the challenges posed by complainants who submit multiple complaints, complaints that appear to be vexatious, and complaints from feuding neighbours, and the impact that such complaints have on the allocation and prioritization of resources, as well as on the community. The fundamental purpose of by-law enforcement is to ensure compliance with enacted by-laws so that residential and commercial properties, city parks and public spaces are maintained at approved standards.

With respect to the incident in Ward 38, Scarborough Centre, the complaints were technical in nature, related to front yard fence and hedge heights, long grass, and various zoning infractions concerning driveway use and widths. ML&S staff investigated the properties and deemed that a large number of the complaints were in fact valid.

At City Council's direction, staff contemplated the feasibility of waiving the appeal fees for the affected Scarborough residents. However, doing so would compromise the integrity of our by-laws and its consistent, fair and reasonable application. As the current ML&S enforcement model is largely complaint driven, ML&S investigates all complaints and uniformly issues notices and orders where officers conclude that there is a legitimate by-law contravention. Significant ML&S staff time and resources were required to undertake the inspections and issue notices of violation. ML&S believes the orders were issued correctly and expects all residents to comply with City by-laws. Property owners have the option to file an appeal, however, ML&S' experience is that owners often choose to remedy the violation without an appeal.

ML&S staff agree that moving forward, the reinforcement of internal divisional procedures respecting the roles of by-law enforcement staff, the process for which they may escalate difficult complaints up through senior management, as well as educate the public, is important to supporting an effective enforcement regime.

Discretion is inherent in by-law enforcement, and it is exercised individually in staff's interpretation and application of City by-laws. As the aim of any enforcement action is to modify the behaviour of the offender so the offence is not repeated, staff have the ability to choose a variety of tools to achieve compliance. Enforcement options include, but are not limited to: general deterrence, visibility, patrolling, education, verbal warnings, written warnings, notices and orders, certificates of offence, summons, and corrective action.

When complaints are received by ML&S, each complaint is investigated and carefully considered on its merits. If staff determine that a violation exists on a property, they issue a notice of violation and/or an order to comply as a proactive tool prior to laying a charge. Notices and orders serve as advisories of a violation and contain a date of compliance. If a property owner does not comply by the specified date, additional enforcement action may be taken.

When staff encounter more challenging complaints, such as multiple complaints from one person, complaints that appear to be vexatious, and complaints from feuding neighbours, staff have the ability to escalate the complaints through the proper channels. Staff may inform their supervisor, manager, director, and the Executive Director and seek direction in the determination of the appropriate course of action and/or level of further involvement. In the same way, staff understand that each case may be different, and as such, each case is scrutinized based on its own merits.

Whenever possible, ML&S endeavours to resolve complaints through education and voluntary compliance. During the course of their daily work, ML&S enforcement staff

are encouraged to effectively communicate with residents and the community as a whole, on the objectives of by-law enforcement, about violations that are being committed, and on how to be a good neighbour. In cases of feuding neighbours, ML&S enforcement officers facilitate dispute resolution and have the ability to refer parties to external mediation services where they exist.

ML&S already has the necessary tools available at their disposal to manage and respond to complaints. Internal procedures simply need to be reinforced so that staff understand that they can escalate certain situations to more senior staff in the division.

These internal procedures are used in conjunction with the City of Toronto's Complaint Handling Guidelines, Guide to Good Practice, and ML&S's Complaint Compliance Protocol and formalized Standard Operating Procedures (SOPs).

### **Next Steps**

ML&S will explore further alternate dispute resolution opportunities and will seek to identify other community based organizations that may assist in managing neighbour and community conflicts.

In cases of more complex and persistent complaint matters that may be seen as vexatious, ML&S will also involve other City resources. Namely, ML&S will engage in dialogue with the Office of the Ombudsman in the determination of advanced resolution strategies.

### **CONTACT**

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### **SIGNATURE**

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Municipal Licensing and Standards