



STAFF REPORT ACTION REQUIRED

Request for a Fence Exemption to the Toronto Municipal Code, Chapter 447 – 70 Ivy Ave

Date:	October 24, 2016
To:	Toronto and East York Community Council
From:	Joe Magalhaes, District Manager Municipal Licensing & Standards, Scarborough District
Wards:	Ward 30 – Toronto - Danforth
Reference Number:	IBMS No. 16-205858 FEN 00 IR

SUMMARY

This staff report concerns a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Council concerning an application by the property owner of 70 Ivy Ave for a site-specific Fence Exemption, pursuant to Section 447-5.C of Toronto Municipal Code, Chapter 447- Fences. The property owner is seeking Council's permission to allow for the existing fence, which does not comply with maximum fence height restrictions stipulated by Section 447-2 of the bylaw.

The existing wood fence on the West side of the property in the rear yard was measured in 3 separate sections. Section 1 above the deck, measures approximately 8 feet 1 inch (2.5 m) in height and spans 16 feet and 1 inch (4.9 m). Section 2, which is on the deck next to section 1 is 2 feet 9 inches high (0.84 m) and spans 3 feet 1 inch (0.94 m). Section 3 is on grade to the North of the deck, and is approximately 6 feet 2 inches (2.2 m) in height and spans 25 feet (7.6 m).

The second fence is on the East side of the rear yard and sits on top of a concrete retaining wall (36 inches off grade). It is an existing wood fence. There are several sections to the fence. Section 1 is in compliance with the Fence by-law. Section 2 is 7 feet 4 inches (2.2 m) in height and spans 3 feet 4 inches (1.0 m). Section 3 is 9 feet (2.8 m) in height and spans 8 feet 1 inch (2.5 m). Section 4 is 8 feet 1 inch (2.5 m) in height and spans 8 feet 2 inches (2.5 m). Section 5 is at the end of the deck and continues past

the deck. The section on the deck measures 7 feet 4 inches (2.2 m) in height and spans 3 feet 1 inch (0.9 m). The remaining sections of the fence are in compliance with the Fence Bylaw.

The application is based on a complaint that was received and investigated by Municipal Licensing and Standards.

RECOMMENDATIONS

Municipal Licensing & Standards recommends that the Toronto and East York Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner of 70 Ivy Ave., for a fence that fails to comply with the provisions of Toronto Municipal Code, Chapter 447, Fences.

OR

2. Grant the application for a fence exemption permit, without conditions, thereby allowing the fence to be maintained as constructed. Direct and require that the installation be maintained in good repair without alteration. At such time as replacement of the fence is required that such installation will comply with Municipal Code Chapter 447, or its successor by-law.

Financial Impact

There is no financial impact anticipated in this report.

DECISION HISTORY

The property owner submitted a fence exemption application, in writing, on August 24, 2016, for two pre-existing fences, in accordance with Section 447-5(C) of Toronto Municipal Code, Chapter 447- Fences, listing "privacy from adjoining neighbours on the East side and also that the fence on the West side of the property was built approximately 10 years ago" as the reasons for the application.

As required by Section 447-5(C), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for Toronto and East York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that Toronto and East York Community Council will consider the application. (Attachment 13)

ISSUE BACKGROUND

The subject property, 70 Ivy Ave., is located in Ward 30. It is a two story semi-detached, residential building.

Municipal Licensing Standards' investigated the fence installation and determined that it did not comply with maximum height restrictions for residential fences (see table below) provided by Section 447-2 of Toronto Municipal Code, Chapter 447- Fences.

GENERAL LOCATION	SPECIFIC LOCATION	PROPOSED CONSTRUCTION & DEFICIENCY	BY-LAW SECTION & REQUIREMENT*
Rear Yard	1. Adjacent to East lot line; (Attachment 7, 8, 9)	1. The fence is divided into 3 sections. Only 1 section exceeds height – Section 1 above the deck, measures approximately 2.5 m (8 ft. 1 in.) high and spans 4.9 m (16 ft. and 1 in.).	Section 447-2 (B)(1) Maximum height of 2.0 metres, measured at any point along its length, based on the average grade height of the land within 1 metre on either side of the fence
Rear Yard	2. Adjacent to West lot line; (Attachment 10, 11)	2. The fence is divided into several sections. Only 4 sections exceed height – Section 2 is 2.2 m (7 ft. 4 in.) high and spans 1.0 m (3 ft. 4 in). Section 3 is 2.8 m (9 ft.) high and spans 2.5 m (8 ft. 1 in.). Section 4 is 2.5 m (8 ft. 1 in.) high and spans 2.5 m (8 ft. 2 in.). Section 5 is 2.2 m (7 ft. 4 in.) high and spans 0.9 m (3 ft. 1 in.).	Section 447-2 (B)(1) Maximum height of 2.0 metres, measured at any point along its length, based on the average grade height of the land within 1 metre on either side of the fence

COMMENTS

While the proposed fence violates Toronto Municipal Code, Chapter 447- Fences with respect to height, it does not appear to contravene any other provisions of the bylaw.

CONTACT

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SIGNATURE

Joe Magalhaes, District Manager,
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Toronto and East York District

ATTACHMENTS:

The following attachments are included:

Attachment 1: Site Plan of both existing fences (supplied by the home owner)

Attachment 2-5: Photos of the fence (taken by home owner)

Attachment 6: IView survey of the property

Attachment 7-12: Photos of the fence (taken by MLS Officer)