

November 4, 2017

Mayor Tory, City Council, Barbara Gray
City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Mayor Tory, Members of City Council and Barbara Gray (General Manager, Transportation Services),

Re: Item PW24.4-Improving Accountability in the Utility Cut Process/Universal Equipment Placement Guidelines

The ABC Residents Association is a not-for-profit federally regulated community organization representing the interests of residents in the geographic area bounded by Bloor Street to the South, the CPR tracks to the North, Yonge Street to the East and Avenue Rd to the West.

We are working in partnership with FONTRA, and the BIAs to advocate for better management with respect to the placement of above ground installations/equipment in the rights-of-way. We expect that members of City Council should also be concerned about these issues to ensure the protection of the public realm and the safety of Toronto residents.

The Universal Equipment Placement Guidelines (“Guidelines”) should not be approved by City Council in their current form.

We have many criticisms with respect to the Guidelines as they are poorly drafted, are internally inconsistent and they are inconsistent with the Municipal Consent Requirements (“MCR”), which take priority over the Guidelines. **But most importantly, in their current form, the Guidelines offer far less protections to the residents of Toronto than are contained in the MCR. If they are approved by City Council, the interests of the public will be significantly weakened. In particular (although by no means the only issues), the specific provisions of the MCR:**

- **requiring more scrutiny in reviewing applications for above ground plant on arterial streets and in the downtown central area as defined in the Official Plan,**

- **requiring the justification by a utility for above ground plant and the reason why it cannot be buried, and**
 - **specifying those to whom notifications must be provided,**
- will all be lost or weakened under the Guidelines. It is our view that having no Guidelines is preferable to having the draft Guidelines; as with no Guidelines it will be clear that the MCR is the governing document.**

Below are the details of some of the inconsistencies we have noted, and FONTRA has provided a separate document with additional detailed descriptions of these and many more issues that exist in the poorly drafted Guidelines.

- MCR- Chapter 5- Above Ground Plant- requires *“more scrutiny in reviewing applications to install above ground plant on major or minor arterial streets and in the downtown central area as defined in OP”*. How do Guidelines address this? The Guidelines only seem to “prefer” that equipment be installed below grade (page 6), and in residential areas that smaller and below grade equipment “be considered” or placed on the side of a property. The language in the Guidelines is clearly not strong enough.
- MCR- Chapter 5- Above Ground Plant- under **“Justification”** it is required that *“Applications or drawings that include proposed above-ground plant shall include an explanation of the reason why this plant cannot be installed below ground.”* The wording in the Guidelines is not consistent- it only “prefers” below ground installations, or “must consider” below ground installations. There is no clear priority to having such installations buried.
- Guidelines - General Placement Practices (page 6)- No above ground plant will be placed- *“In a manner which is in plain sight of a window, window display, door, unless the owner or occupant provides written consent.”* This should be a critical requirement, and by its terms includes homeowners across the street, on a flankage street, or occupants of a business. However, under “Notification/Sign off” (page 8), for above ground plant it states that “A notification to the **adjacent** property owner(s) is required for any above ground plant when...”, and further it states “A concurrence sign off from the **adjacent** property owner(s) or an authorized representative is required for any above grade plant ...”. These notification and concurrence requirements are much narrower and inconsistent with the clear requirement on page 6. Most importantly the MCR (which

take priority over the Guidelines) on page 28 specify notification “to all adjacent properties, and all properties that will face or will have a line of sight to the proposed plant”. This must be the overriding principle that governs who is given notice and who must concur. The Guidelines do not incorporate this principle in the notification/sign off provisions and must do so.

- Guidelines- General Placement Practices (page 6)- “For above ground plant that have an overall foot print (including protective measures) larger than 1m x 1m x 1m all utility companies must provide aesthetic treatment options and alternate location options when submitting an application to the City.” Burying plant should be the first priority, then considering alternate locations, Aesthetic treatment should be a last resort. The MCRs require a justification for above ground plant, regardless of the size, so why is size relevant here?
- Guidelines-General Placement Practices (page 6)- Preserving Aesthetic View refers to preserving “sight lines from windows and front doors”. Under Design Placement Considerations (page 10) with respect to Residential Above Ground Structures it refers to “curb appeal” and the “street view of a house” from a building or the road. Both the views from houses/buildings and views from the street and passing pedestrians are important considerations and should be critical to any placement of above ground structures.
- Guidelines- Design Placement Considerations (page 11,12)- in Commercial/Institutional/Industrial there is a requirement under Above Ground Structures, and Large Scale Above Ground Structure that such structures “must not be higher than 1.2m”. This reads as a restriction and not a “consideration”? Why are there no such restrictions in Residential? We note for example that the installation in Jay MacPherson Park is 1.6m high. Further, for Large Scale Above Ground Structures there “must be a minimum boulevard width of 2m”. Why is there not a similar restriction for Residential?
- Guidelines- Design Placement Considerations (page 12)- Public Spaces- Parks etc states that “When an equipment placed in front of park which is opposite of residential homes and have an overall foot print larger than 1m x 1m x 1m, Parks Supervisor and Councillor must be notified.” Any above ground plant in front of a Park, regardless of size, and regardless of whether it is opposite residential homes, should be the subject of notification

to the Parks Supervisor, the Councillor and local residents association. It should be a priority in this section that above ground plant should not be permitted in Parks and all such equipment should be buried.

- MCR- Chapter 4- application streams- any installation above ground should be full stream. Note the Guidelines do not mention short stream or full stream, so the Guidelines apply to both.
- MCR- Chapter 5- Above Ground Plant requires notification to BIAs who have the right to object to an installation. The Guidelines do not refer to notification to BIAs at all.
- Guidelines- Appendix- **Notification Sample** provides measurements of the Enbridge utility enclosure, and then states that “protective posts (or and equivalent) may also be required in order to prevent damage”. The measurements must provide the dimensions including the protective posts. We note this is specifically required on page 6 when describing “above ground plant that have an overall foot print (including protective measures) larger than 1m x 1m x 1m”. (Although we note the “protective measures” are not referred to in the dimensions of a 1m x 1m x 1m installation in Parks- yet another inconsistency.) For example- in the Lytton Park example, when the bollards are included the width of the 5 foot wide Enbridge box becomes 15 feet.

We urge City Council not to approve these Guidelines, and request that further review and revision of the Guidelines be done by Transportation Services in consultation with the comments of ABC Residents Association, FONTRA and the BIAs.

Yours truly,

Lianne Miller, Director, ABC Residents Association

cc: Councillor Wong-Tam, Kyp Perikleous, Carly Hinks, Lorraine Hewitt, Cathie MacDonald, Briar De Lange, Ron Palmer, Mary Helen Spence, John Caliendo, Ian Carmichael