



November 26, 2017

Mayor Tory and City Council
City Hall, 100 Queen Street West
Toronto, ON M5H 2N2
Sent by email

Dear Mayor Tory and Members of City Council,

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

City Council at its December 5, 6 and 7, 2017 meeting will consider item [PW24.4-Improving Accountability in the Utility Cut Process](#). Included in the Background Information for this item is the Supplementary Report from the General Manager, Transportation Services dated November 6, 2017 (the "Supplementary Report"). The Revised Universal Equipment Placement Guidelines (the "Revised Guidelines") are set out in Attachment 1 to the Supplementary Report.

This submission is from the Federation of North Toronto Residents' Associations, the ABC Residents Association and the Bloor-Yorkville Business Improvement Area.

In the public interest, we ask City Council to refer the Revised Guidelines back to City staff to address the serious issues, including the impact on the public realm and public safety, lack of notification to Councillors, residents and BIAs, and other concerns outlined in our submission that arise from the proliferation of above ground installations.

While the Revised Guidelines deal with installation of equipment by all utilities in the right of way, our concerns and comments are directed at the ABOVE GROUND INSTALLATIONS OF ENBRIDGE GAS. The decision by Enbridge to move some of its gas infrastructure above ground has serious

negative implications for the residents of Toronto. The photographs we include at the end of this document should be sufficient evidence of the seriousness of this issue.

It is our opinion that City Council is not taking responsible action to mitigate the adverse impact that these above ground installations will have (a) on the public realm, (b) on safe access for pedestrians including people with disabilities and (c) on public safety.

The public realm is of increasing importance as our City intensifies. We note for example, the report regarding Sidewalk Cafe and Marketing Bylaw that addresses sidewalk widths that will be considered at the December 4 joint meeting of the Licensing and Standards and Public Works and Infrastructure Committees.

As for the safety implications, to our knowledge there have been no studies of the potential safety risk for the public of having these large gas distribution pipes and other installations above ground.



Warning on Yorkville sidewalk installation

For these reasons we continue to advocate for your careful scrutiny of this important matter.

We are not suggesting that access to the public right of way be withheld from utility companies. Rather, we are suggesting that the City has the right and indeed the obligation to regulate how that access is granted.

We therefore ask City Council to adopt the following recommendations:

1. Refer item PW24.4 back to City Staff to:

- strengthen and clarify the notification and objection processes for Councillors, affected residents and BIAs for above ground installations,**
- correct and eliminate the inconsistencies and conflicts between the Municipal Consent Requirements and the Universal Equipment Placement Guidelines. For example, include in the Guidelines (a) the required process for justification for placement of above ground installations on arterial roads and in the Downtown, and (b) notification to property owners who will face or have a line of sight to the proposed installation, and to BIAs.**

2. Direct the Executive Director, City Planning Division to report to the Planning and Growth Management Committee their recommendations how to include in the Site Plan approval process the requirement to incorporate the appropriate utility infrastructure as part of the building envelope.

3. Direct appropriate City staff to require Enbridge to provide to the City independent studies that outline the safety implications to the general public of their policy to install some of their infrastructure above ground and on public sidewalks and in other parts of the right of way rather than underground.

Below are the reasons the proposed Revised Guidelines should NOT be approved by City Council in their current form.

The Supplementary Report refers to the meeting Transportation Services had with a delegation of residents and business associations arranged by Councillor Wong-Tam and others on November 3, 2017. The final paragraph of the Supplementary Report states:

“In conclusion, the consultation was very informative and positive, and City staff agreed to take the comments provided in the attachments and incorporate revisions to the guidelines where possible (see Attachment 1).”

This conclusion is not correct. We want to make it clear to City Council and for the public record that the Supplementary Report and the Revised Guidelines do not respond to the concerns raised by ABCRA, FoNTRA or the Bloor-Yorkville BIA at the meeting or in our written comments submitted to Transportation Services, to the Public Works and Infrastructure Committee and to City Council. Virtually none of these concerns or comments have been addressed in the Revised Guidelines. In fact, the Revised Guidelines further weaken the interests of the public.

We comment below on the specific statements made by Transportation Services in the Supplementary Report which remain unresolved.

A. REASONABLE NOTIFICATION TO COUNCILLORS, AFFECTED RESIDENTS, & BIAs IS WEAKENED FROM EXISTING.

“The resident’s associations expressed concerns that they would like to see an expanded area of notification where possible to Councillors, BIAs, Parks, residents and property owners to ensure that as many people are aware of these installations in their neighbourhoods and communities.”

- **While we expressed this concern, the Revised Guidelines do not address any expanded notification.**
- **The “public” notification provisions under the Revised Guidelines do not describe who are “affected residences” that must be notified.**
- **The Revised Guidelines recommend, but do not require, notification to “adjacent property owner(s)”. This is inadequate. Property owners who will face or have a line of sight to the proposed installation are not required to be notified. The Municipal Consent Requirements (“MCR”) (page 28) specifically require written notification to such persons, so the Revised Guidelines are inconsistent and less comprehensive.**
- **The Revised Guidelines have “recommended” notification to the Councillor and the relevant BIA, BUT ONLY in circumstances where the above ground equipment “is placed in front of a park, opposite residential homes and has an overall footprint larger than 1m x 1m x 1m”.**
- **Councillors are not required to be notified when above ground equipment is to be placed in a park or public space that is not opposite residential homes; surely the Councillor should be notified.**

- In the case of notification to affected BIAs, the Revised Guidelines remove the notification existing under the MCR (page 28) that specifically require the relevant BIA must notified in all cases (in a park or anywhere) where above ground plants are installed within their area.
- In fact, the Revised Guidelines actually weaken the requirements to notify that are contained in the MCR and hence provides confusion.
- We have also recommended that local Residents Association be notified of any above ground plants proposed to be installed in their area, and this is not addressed in the Revised Guidelines.

B. REMOVAL OF JUSTIFICATION FOR ABOVE GROUND INSTALLATIONS AND SCRUTINY OF ARTERIAL ROADS AND DOWNTOWN INSTALLATIONS.

“They also indicated their preference that all new installations be below grade...”

- It must be recognized that Enbridge now has a policy to install gas infrastructure such as District Stations above ground. Our concern is that equipment is being installed above ground with more frequency in places that are inappropriate.
- The MCR require justification for plants to be installed above ground, and that “more scrutiny” is required in installing above ground plants on major or minor arterial streets and in the downtown central area as defined in OP.
- The Revised Guidelines do not require that plants be installed below grade, do not require justification for plants to be installed above ground and do not require more scrutiny in reviewing the placement of above ground plants in those locations referred to in the MCR.

C. CONTENT OF NOTIFICATIONS

“It was agreed that under the new guidelines, provisions have been put in place for a more detailed public notification protocol, which includes a detailed rendering of the proposed installation.”

- The Revised Guidelines are inconsistent as to the details to be provided in a notice (although we note a notice is no longer required, but only recommended). In one section (on page 8) it says “the type, size and location” of the plant and a paragraph later it says “pictures of proposed equipment and location and contact information”.

- **The Notification Sample from Enbridge shows a drawing of the installation with measurements of the box, and height of the protective measures, but the measurements do not include the length and width of the protective measures around the installation and should do so, as this is part of the installation. These protective bollards increase the visual impact of the installation significantly. (see photo 1 below)**

D. INTEGRATION OF ABOVE GROUND INFRASTRUCTURE IN NEW SITE APPLICATIONS.

“It was also agreed that when new site plan applications are submitted, City Planning and Transportation Services staff would work with developers to specifically include areas on private property to incorporate the appropriate utility infrastructure as part of the building envelope.”

- **We agree this is an important requirement, but it has not been included in the Revised Guidelines.**
- **A vague suggestion that City staff will “work with developers to incorporate these utility infrastructure as part of the building envelope” is insufficient. City Council should direct the City Planning staff to present a policy recommendation to ensure this is a requirement of the site plan approval process for all new developments. (see photos 2 and 3 below)**

E. THE CITY’S RESPONSIBILITY TO PROTECT THE PUBLIC’S RIGHTS VS THE PREFERENCES OF UTILITY COMPANIES.

“However, staff could not agree that all residents/property owners have the right of refusal to an application, as the utilities have a Right of Access under Provincial and Federal Law, and imposing such a restriction would certainly invoke an appeal by the utility companies to the Canadian Radio-television and Telecommunications Commission (CRTC) and Ontario Energy Board. In response to the Utility Companies concerns and consistent with the Utilities Right of Access provision, Transportation Services has agreed that concurrence from affected residents/property owners should be recommended, but not required.”

- **We are not suggesting that access to the public rights of way be withheld from the utility companies.**

- We are suggesting that the City has the right and indeed the obligation to regulate how that access is granted.
- As a result of complaints by the utility companies, Transportation Services has removed from the Revised Guidelines the requirement of concurrence by affected property owners. Now it is only recommended that such concurrence be obtained.
- We recognize that it may not be possible or practical to obtain concurrence of affected property owners to installation of above ground plant, but such persons should have the right to be notified and the right to object to the installation.
- The MCR (on page 28) stipulate a process of objection for BIAs (who are required to be notified of above ground plants in their area). This process must be stated in the Revised Guidelines and should be extended to Councillors, affected residents, and local Residents Associations.
- If the utility companies have a right to appeal a refusal of their application, then they can exercise such right. Why should the City sacrifice the Public Realm for the desires of the utility companies to install above ground installations at their convenience.

F. OUR FEEDBACK HAS NOT BEEN INCORPORATED AND THE REVISED GUIDELINES CONTAIN NO SUBSTANTIVE BENEFITS OR IMPROVEMENTS.

“The Placement Guidelines have been revised based on the feedback received and it should be noted that adoption of these guidelines provides significant positive steps to utility placements within the public right of way. Notable benefits include the requirement for aesthetic treatments, improved notification and placement guidelines with plans and drawings that more fully describe proposed installations.”

- The Revised Guidelines do not incorporate our feedback, and from our perspective provide no positive steps to placement of utility installations in the public right of way.
- We do not consider aesthetic treatments to be a benefit, when the installation is large and inappropriately placed. (see photos 4, 5 and 6 below)

- **The notification provisions are not improved but in fact are weakened as they now neither require notification or concurrence, which were in the previous version of the Guidelines.**
- **The notification provisions in the Revised Guidelines are weaker than those in the MCR (as described above).**
- **The placement guidelines are not improved, and do not refer to the MCR which require more scrutiny in certain areas, and a justification for not burying a plant.**
- **A number of inconsistencies in the document, and conflicts with the MCR, remain.**

The only positive changes from our perspective that have been incorporated into the Revised Guidelines are minor and are:

- they clarify that the MCR is the “overarching” document to the Guidelines, although we note many of the provisions of the Revised Guidelines are inconsistent with the MCR,
- the Heading “Residential” on page 10 has been changed to “Residential Homes, Condos, and Apartment Buildings”, and in the paragraph that follows that heading, “pedestrians in the community” has been added to the statement that “*curb appeal is very important to many homeowners and pedestrians in the community, therefore special design are recommended for placement of above ground structures....*”. However, our many concerns about the placement of structures in these areas have not been addressed, and
- there is now a reference to “BIA” in the paragraph dealing with above ground plant “in parks opposite residential homes” (on page 8, and again for the same circumstance on page 12). But we note that there is no general notification to BIAs for above ground equipment installed anywhere else as required under the MCR.

We have already provided many specific concerns and comments in our submissions filed with the City Clerk for the City Council meeting on November 7, 2017 (as well as for the Public Works and Infrastructure Committee meeting on October 18, 2017) , and as noted above virtually none of them has been addressed. (These submissions are all included in the Agenda Item History for Item PW24.4.)

We urge you to again review those submissions and urge City Council not to approve the Revised 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, with its stricter requirements, is the governing document.

Yours truly,

Lianne Miller, Director, ABC Residents Association

John Caliendo, Ian Carmichael, Co-Presidents, ABC Residents Association

Cathie MacDonald, Geoff Kettel, Co-Chairs, Federation of North Toronto Residents Associations

Ron Palmer, Vice-Chair, Bloor-Yorkville Business Improvement Area

cc. Barbara Gray, General Manager, Transportation Services



Photo 1: Lytton Park Boulevard (at Duplex) box placed without concern at front entrance to Church and across from historical designated home.



Photo 2: Avenue Road sidewalk near front of the recently renovated Four Seasons Condominiums.



Photo 3: Davenport Road infrastructure incorporated into the building envelope and off the public sidewalk.



Photo 4: Pipes in the middle of Charles Street sidewalk between Yonge and Bay.



Photo 5: Pipes on Bathurst Street south of St Clair.



Photo 6: Bay & Bloor pipes contained but better placed off the sidewalk in adjacent lane 20 feet away.