

Clause embodied in Report No. 5 of the Planning and Transportation Committee, as adopted by the Council of the City of Toronto at its meeting held on May 30, 31 and June 1, 2001.

3**Harmonization of the Division Fence By-law**

(City Council on May 30, 31 and June 1, 2001, amended this Clause:

(1) to provide that the current method of the former City of Toronto continue to apply within the boundaries of the former City of Toronto, and the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee in December 2001 in this regard; and

(2) by adding thereto the following:

“It is further recommended that:

(a) the report dated May 16, 2001, from the Commissioner of Urban Development Services, embodying the following recommendation, be adopted:

‘It is recommended that the Commissioner of Urban Development Services, in consultation with the necessary City departments, be requested to investigate the possibility of establishing a grants programme to allow the City, in unique circumstances, to assist with the cost of erecting fences along public highways and report thereon to the Planning and Transportation Committee.’; and

(b) the joint report dated May 16, 2001, from the City Clerk and the Commissioner of Urban Development Services, embodying the following recommendations, be adopted:

‘It is recommended that:

(1) the Schedule of Fees set out in this report be adopted;

(2) the Office of the City Clerk be allocated one additional staff person, in order to carry out the additional responsibilities, with funds required therefor drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process; and

(3) the appropriate City officials be authorized to take the necessary action to give effect thereto.’ ”)

The Planning and Transportation Committee recommends that:

- (1) the following Recommendations (2) and (3) of the report (April 11, 2001) from the Commissioner of Urban Development Services be adopted:**
 - “(2) the procedure as outlined in the Line Fences Act be adopted and that the necessary bill(s) be prepared by the City Solicitor to implement the procedure and the fees recommended in this report and to appoint members of the Property Standards Committee as fence viewers for the purposes of the Act. In addition, it is recommended that the bill provide that no fence viewing will take place between the 1st day of November and the 31st day of March in the next following year, as provided for in the Act; and**
 - (3) the balance of this report be received for information.”; and**
- (2) the report (May 7, 2001) from the City Clerk, recommending the following, be adopted:**
 - “(1) City Clerk’s be allocated one additional staff person in order to carry out the additional responsibilities with funds required therefor drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process; and**
 - (2) this report, as adopted, be submitted to the Budget Advisory Committee for consideration as part of the 2002 budget process.”**

The Planning and Transportation Committee reports, for the information of City Council, having requested the:

- (1) Commissioner of Urban Development Services, in consultation with the City Solicitor, to report directly to City Council on:**
 - (a) a by-law amendment which would allow the City, in unique circumstances, to share in the costs of erecting fences abutting public highways; and**
 - (b) a mechanism for providing an appeal process to the appropriate Committee; and**
- (2) Commissioner of Urban Development Services and the City Clerk to report directly to City Council on the costs involved in implementing Recommendation (2) of the report (April 11, 2001) from the Commissioner of Urban Development Services and advise whether the application fees proposed therein are sufficient to cover the costs of administering this program entirely including the provision of any additional staff and if not, provide suggested application fees necessary in order to ensure that the program is conducted on a full cost recovery basis.**

Purpose:

To report further on the harmonization of the Division Fence By-law.

Financial Implications and Impact Statement:

In 1999, the City received a total of \$7,610.00 in application fees related to fence viewing. In 2000, the total revenue derived from application fees was \$1,920.00. The programme options are intended to be revenue neutral, provided that in the case of fence viewers the schedule of fees as set out in Table 3 is adopted.

Based on last year's figures, there would be a revenue loss of \$1,920.00 resulting from implementation of a division fence by-law. The loss would be totally offset by the savings realized in not having to administer the procedure outlined in the Line Fences Act throughout the City. Staff involvement with respect to a division fence by-law would only involve answering the odd question on procedure. In addition, it would no longer be necessary for fence viewers to attend as a result of a request for arbitration. The cost of providing an information package as proposed in this report, would be collected by way of a nominal fee.

If the Committee adopts the procedure outlined under the Line Fences Act, there would be no financial implication, as the programme would be designed to be revenue neutral.

Recommendations:

It is recommended that the Committee:

1. adopt the attached draft Division Fence By-law, along with the fee proposed for the information package, and that the City Solicitor be directed to prepare and submit the necessary bill(s) to Council; or
2. adopt the procedure as outlined in the Line Fences Act and that the necessary bill(s) be prepared by the City Solicitor to implement the procedure and the fees recommended in this report and to appoint members of the Property Standards Committee as fence viewers for the purposes of the Act. In addition, it is recommended that the bill provide that no fence viewing will take place between the 1st day of November and the 31st day of March in the next following year, as provided for in the Act and;
3. receive the balance of this report for information.

Background:

At its meeting held on July 4, 5 and 6, 2000, Council considered Clause No. 2 contained in Report No. 6 of The Planning and Transportation Committee, headed "Harmonization of the Division Fence By-law". Council directed that this Clause be struck out and referred back to Planning and Transportation Committee for further consideration on the impact of the proposed amendments by Council. The report is to address, in particular, the financial implications relative to a motion to delete Clause No. (5), headed "Public Highway", from the proposed Division Fence By-law.

Comments:

Division Fence By-law:

Under the proposed Division Fence By-law, an application to the City for fence viewers along with the applicable administration fees would not be required.

The proposed Division Fence By-law is designed to ensure that all property owners are treated fairly. Under the by-law, where an owner wishes to recover the costs associated with the construction, repair or replacement of a division fence, he or she would send a registered letter giving notice to the adjoining owner at least fourteen (14) days prior to commencement of the work.

In the case of a new fence, the adjoining property owner would be required to pay the lesser of fifty (50) percent of the actual cost of the work completed or fifty (50) percent of the cost of a basic 1.2 metre chain link fence. In the case of a repair to a fence, the owner would be required to pay fifty (50) percent of the actual cost of the repair.

In the event that a neighbour fails to pay its fair share of the cost of a division fence, a property owner wishing to recover a portion of the cost of a division fence would commence proceedings at the Ontario Court of Justice for an order acknowledging the debt. If the debt remains unpaid, a certificate of default from the Ontario Court of Justice can be entered as a judgement through the Small Claims Court.

To assist residents of the City, staff will develop an information guide which will explain the new procedure. We are suggesting a cost recovery fee of \$20.00 for the information package.

The draft Division Fence By-law is similar to that which has been adopted by the City of Vaughan and the Town of Markham. In both cases, the procedure of appointing fence viewers under the Line Fences Act has been discontinued in favour of a by-law that would predetermine the apportionment of costs under the authority of the Municipal Act.

Impact of Section 5 of the Draft By-law:

It was moved:

“That the clause be amended:

- (1) to provide that Section 5 of the proposed Division Fence By-law apply to front fences only; and
- (2) by adding thereto the following:

‘It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to Planning and Transportation Committee on the cost implications to the City if the City is held responsible for paying one-half of the cost of basic front or back yard fences.’ ”

It was further moved:

“That the Clause be amended to provide that Clause No. (5), entitled ‘Public Highway’, be deleted from the proposed Division Fence By-law.”

The total linear frontage of all properties in the City is estimated to be approximately 11,000,000 metres. This does not include properties with rear yards that back onto City roadways, laneways or properties which abut parklands.

It would be impossible to estimate the cost to the City in any given year, if property owners were automatically awarded one-half the cost of the installation or maintenance of fences located in the front or back yards.

A survey of fencing contractors has put the cost of erecting a basic 1.2 metre chain link fence at approximately \$26.00 per linear metre. If the City were required to pay one-half of the cost of a basic fence for all properties fronting on City roadways and, if the number of claims filed in any given year amounted to only ten percent of the total street frontage in the City, the cost to the City would be approximately \$14,300,000.

Section 5 of the draft by-law, which exempts the public highways, is similar to that contained in Section 25 of the Line Fences Act which reads as follows:

“Act does not apply to public highways

25.--(1) Despite sections 23 and 24, this Act does not apply to any lands that constitute a public highway including lands abutting a public highway that are held as a reserve by a municipality or other public authority to separate lands abutting the reserve from the public highway.”

It would be financially prohibitive to provide monetary assistance to residents constructing a fence abutting public highways.

Fence Viewers:

It was moved:

“That the Clause be amended:

- (1) to provide that the by-law be amended to maintain the current provisions of the former City of Toronto by-law within the boundaries of the former City; and
- (2) by adding thereto the following:

It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee in one year's time on the operation of this system and whether methods to facilitate dispute resolution are required in the former Cities of Etobicoke, Scarborough, East York and North York, and how and whether the City of Toronto should apply for the required special legislation.

It was further moved:

“That Part (1) of the first motion noted be amended by adding, thereto, the following words:

‘on the condition that fees be increased in order to pay as fully as possible for the cost of fence viewing/arbitration.’ ”

The suggestions by the Councillors that the by-law be amended to maintain the current provisions enjoyed by the former City of Toronto within the boundaries of the former City, would not permit a single harmonized option for the entire City and in our opinion, would only lead to confusion. In addition, in order to expand the process presently in place in the former City of Toronto throughout the new City, it would be necessary to apply for special legislation from the Province.

It was moved:

“That the clause be amended by adding thereto the following:

‘It is further recommended that the Commissioner of Works and Emergency Services be requested to appoint as many members of existing staff as he deems appropriate as Fence Arbitrators, and that the Fence Arbitrators be granted the authority to make a final decision in the event of fence disputes, and that the by-law be amended accordingly.’ ”

It was further moved:

“That Part (1) of the first motion be amended to provide that fence viewers be continued and expanded in all former municipalities, and further, that the

Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee on how this could be accomplished.”

Councillors have suggested that we adopt the approach of appointing fence viewers to decide how much each person should pay for the erection or maintenance of a fence.

Fence viewers can be appointed under the existing authority of the Line Fences Act; however, as indicated in our report dated March 1, 2000, the number of applications being considered have been decreasing. Table 1 illustrates the decline in the number of applications over the past three years.

Table 1

Former Municipality	Process	Applications 1998	Applications 1999	Applications 2000
Toronto	Chapter 182	109	65	0
North York	By-law 29830	Not required	Not required	Not required
York	<i>Line Fences Act</i>	2	0	0
Scarborough	<i>Line Fences Act</i>	8	1	7
Etobicoke	<i>Line Fences Act</i>	2	6	3
East York	<i>Line Fences Act</i>	0	0	0

Given the decline in the number of applications and the related administrative costs in providing a revenue neutral programme, an elaborate procedure as outlined in the Line Fences Act or Chapter 182 of the former City of Toronto, as outlined in Appendix "A" attached, is not justified.

Fees:

Table 2 reflects the existing fees relating to fence viewing under the Line Fences Act and Chapter 182 of the former City of Toronto.

Table 2

Former Municipality	Process	Application Fee	Fence-Viewer Fee	Surveyor Fee
Toronto	Chapter 182	\$100	None	As required
North York	By-law 29830	Not required	Not required	Not required
York	Line Fences Act	None	\$20 hr. x 3	As required
Scarborough	Line Fences Act	\$60	\$50 x 3	As required
Etobicoke	Line Fences Act	\$30	\$40 x 3	As required
East York	Line Fences Act	\$50	\$20 x 3	As required

The recommended schedule of fees outlined in Table 3 reflects the fees required to make a fence viewing programme under the Line Fences Act cost neutral.

Table 3
Recommended Schedule of Fees

Service	Fee	Justification
Basic Application Fee	\$200	Costs related to staff time and other costs relating to the administration of the programme.
Registered Letter	\$5 each	Cost of registration of letter. \$4.46
Fence Viewers	\$30 per hour (min. 3 hrs) x 3 viewers	The fee for special inspections under Chapter 363, Building Construction and Demolition, is \$60.00 per hour.
Certificate of Award	\$20	Similar to existing Clerk's fee for certification of material.
Registry	\$25 per registration	Similar to existing registration fees in place in Clerk's Office.
Default Collection (tax roll)	\$75	Fee suggested by Finance Dept. to reflect cost recovery.

Should the Committee find it desirable to adopt a process by which fence viewers would decide the apportionment of costs associated with a division fence, we would recommend that the process contained in the Line Fences Act be adopted along with the fees recommended in Table 3 of this report and that a by-law be enacted appointing all members of the Property Standards Committee as fence viewers for the purposes of the Act. In addition, we would recommend that fence viewing not take place between November 1st and March 31st of the following year, due to the weather conditions.

We have attempted to consult with existing members of Property Standards Committee and have found that those contacted would have no objection to acting as fence viewers.

Conclusions:

The number of applications being considered has been decreasing over the past three years. Such being the case, an elaborate procedure under the Line Fences Act and all the costs associated with the programme are not justified.

The proposed Division Fence By-law is designed to ensure that all property owners are treated fairly. In the case of a new fence, the adjoining property owner would be required to pay the lesser of fifty (50) percent of the actual cost of the work completed or fifty (50) percent of the cost of a basic 1.2 metre chain link fence. In the case of a repair to a fence, the owner would be required to pay fifty (50) percent of the actual cost of the repair.

In the event that a neighbour fails to pay their fair share of the cost of a division fence, a property owner wishing to recover a portion of the cost of a division fence would commence proceedings at the Ontario Court of Justice for an order acknowledging the debt. If the debt remains unpaid, a certificate of default from the Ontario Court of Justice can be entered as a judgement through the Small Claims Court.

In order to assist residents of the City, staff will develop an information guide which will explain the new procedure. We are suggesting a cost recovery fee of \$20.00 for the information package.

We recommend that the Committee adopt the attached draft Division Fence By-law along with the nominal fee for the information package which will be provided to interested parties.

In the alternative, if the Committee finds it desirable to adopt the procedure outlined in the Line Fences Act, along with the fees recommended in this report, we recommend that a by-law be enacted appointing all members of the Property Standards Committee as fence viewers for the purposes of the Act. In addition, we would recommend that fence viewing not take place between November 1st and March 31st due to the weather conditions.

It is suggested that the City Solicitor, in consultation with the Commissioner of Urban Development Services, be authorized to prepare and introduce in Council the necessary bill(s) to give effect to the decision of the Committee.

It would be financially prohibitive to provide monetary assistance to residents constructing a fence abutting public highways.

This report has been reviewed by Legal Services.

Contact:

E. Gino Vescio

Sr. Policy and Research Officer, Policy and Business Planning Unit

Municipal Licensing and Standards

Telephone: 392-8769, Fax: 392-8805

email: gvescio@city.toronto.on.ca

Appendix “A” - Fence Viewer Process

Item	Line Fences Act, R.S.O 1990	Former Toronto Municipal Code, Chapter 182
1.	Council appoints Fence Viewers and sets fees payable to fence viewers. Fee may be fixed on hourly or daily rate. s.2	Board of Arbitrators consists of City Surveyor and one representative from each owner. If any owner fails to notify the Surveyor of the name of their representative within 14 days, Surveyor may act with any arbitrator who has been appointed. S. 182-8
2.	An owner of property may make a request with the City Clerk for fence viewers to view and arbitrate as to what portion of the fence each owner shall construct, reconstruct or repair and maintain and keep up. s.4(1)	Property owner notified Surveyor of wish to have dispute arbitrated. s. 182-8
3.	The Clerk notifies the owner and adjoining owner by registered mail of date when 3 fence viewers will attend. S.4(2)	Surveyor notifies of time and date of arbitration.
4.	Notice of postponement due to weather or soil conditions. s. 5	
5.	Fence viewers inspect property and may hear evidence under oath. s. 7	Arbitrators inspect property and may hear evidence under oath. 182-9
6.	Fence-viewers make award. s. 8	Arbitrators make award. S. 182-9. In the case of equal division of opinion between the members of the Board of Arbitrators, the decision of the Surveyor prevails. S. 182-8 D
7.	Fence-viewer may employ a surveyor at cost to owners. S. 8 (5) & (6)	
8.	Certified copy of award to be sent to owners by registered mail. s. 9	Certified copy of award to be sent to owners by registered mail. s. 182-10
9.	Copy must be held by the Clerk. s. 9	
10.	Either owner may appeal the award within 15 days to the referee for the appeals division in which the land is situated by serving the owner of the adjoining land and the City Clerk. S. 10	The provisions of the Line Fences Act in respect of enforcement of and appeal from the award made by the fence viewers under the Act, apply with necessary modifications to the enforcement of and appeal from an award of a Board of Arbitrators. S. 182-11

Item	Line Fences Act, R.S.O 1990	Former Toronto Municipal Code, Chapter 182
11.	The Clerk must notify the referee of the appeal. S. 10(3)	As per Line Fences Act
13.	Clerk must notify owners of the time and place of the appeal hearing. s. 10(4)	As per Line Fences Act
14.	Referee may set aside, alter or affirm the award. s. 10(5)	As per Line Fences Act
15.	Clerk must send copy of referee's decision by registered mail to parties and Minister. s. 10(9)	As per Line Fences Act
16.	Where an adjoining owner fails to obey the order, action may be commenced to recover costs by filing notice with the Clerk to have fence viewers re-attend to certify adjoining owner in default. s. 11(7)	As per Line Fences Act
17.	New notice to owners and fence viewers of date for return of fence-viewers. s.11(8)	As per Line Fences Act
18.	Fence-viewer to certify any default including the value of the work and the costs of the proceedings. s. 12(1)	As per Line Fences Act
19.	Fence-viewers file certificate with Clerk. s. 12(4)	As per Line Fences Act
20.	Clerk must enter amount on tax roll and may collect in the same manner as taxes. s.12(5)	As per Line Fences Act
21.	Instead of being collected by City Clerk, the owner entitled to the award may file a copy of the certificate of default and of the award with the clerk of the Small Claims Court. s. 12(9)	As per Line Fences Act

APPENDIX “B”

Authority:
Adopted by Council:

CITY OF TORONTO BY-LAW No. –2001

**For determining how the cost of division fences shall be apportioned, and for
providing that any amount so apportioned shall be recoverable under the
Provincial Offences Act.**

WHEREAS Council has the authority under paragraph 27 of section 210 of the *Municipal Act, R.S.O.1990, c.M.45*, to pass this by-law;

Now therefore, the Council of the City of Toronto HEREBY ENACTS as follows:

1. General

- (1) In this by-law,
 - (a) “Basic Cost” means the cost of installing a 1.2 metre high steel chain link fence as a division fence;
 - (b) “City” means the City of Toronto;
 - (c) “Division Fence” means a fence marking or substantially marking the boundary between adjoining parcels of land;
 - (d) “Install” includes the construction or replacement of a Division Fence;
 - (e) “Owner” means the registered owner of land and includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on his or her own account or as agent or trustee of any other person, or who would so receive the rent if such land or premises were leased, and shall include a lessee or occupant of the property who, under the terms of a lease, is required to install, repair or maintain the division fence.

2. Apportionment of Costs

- (1) Subject to section 3, an Owner wishing to recover the costs associated with the construction, repair or replacement of a Division Fence shall send by registered mail a written notice of his or her intention to the Owner of the adjoining lands at least fourteen (14) days prior to the commencement of any work or the execution of any contract in relation to the work to be undertaken.

- (2) Where an Owner lawfully installs a Division Fence, the Owner of adjoining lands shall be required to pay the lesser of:
 - (a) fifty percent (50%) of the actual cost of the work completed; and
 - (b) fifty percent (50%) of the Basic Cost,provided that, in the case of the replacement of a fence, the replacement is reasonably necessary to comply with City by-laws.
- (3) Where an Owner lawfully repairs an existing Division Fence, the Owner of the adjoining lands shall be required to pay fifty percent (50%) of the actual cost of the repair.
- (4) Where an Owner repairs a Division Fence so as to comply with a notice or order issued by the City, the Owner of the adjoining lands shall be required to pay fifty percent (50%) of the actual cost of the repair.
- (5) An Owner is not required to comply with subsection (1) before undertaking repairs to a Division Fence where the City has issued a notice or order to the Owner requiring that the repairs be carried out.

3. Agreement between Owners of Adjoining Lands

Section 2 does not apply where the Owners of adjoining lands have entered into a written agreement with respect to the apportionment of the cost of constructing, repairing or replacing a Division Fence.

4. Enforcement

An Owner desiring to recover amounts owing under this by-law shall serve or cause to be served on the Owner of the adjoining lands a notice by registered mail requiring compliance with the By-law and if such compliance does not take place within thirty (30) days after service of the notice, the Owner serving the notice may initiate appropriate proceedings under the *Provincial Offences Act* to recover the amount owing from the Owner of the adjoining lands.

5. Public Highway

This by-law does not apply to an Owner of lands that constitute a public highway.

6. Condominium Corporations

Where a declaration has been registered under the *Condominium Act*, the condominium corporation and not the owners of the individual units shall be deemed to be the owner of the land described in the declaration for the purposes of this by-law and,

- (1) any payments the condominium corporation may be responsible for under this by-law, including the costs of any proceeding, are common expenses for the purposes of the *Condominium Act*; and
- (2) any payments to be made to the condominium corporation under this by-law are assets of the condominium corporation.

7. Repeal and Transition

- (1) Subject to subsection 7(2), the following are repealed:
 - (a) By-law No. 29830 of the former City of North York.
 - (b) Sections 182-1 through 182-12 inclusive and sections 182-16 and 182-17 of Article I of Chapter 182, Fences, of the Municipal Code of the former City of Toronto.
- (2) Despite subsection (1),:
 - (a) By-law No. 29830 of the former City of North York continues to apply to properties affected by a notice given in accordance with section 3 of By-law No. 29830 prior to the date of enactment of this by-law until the matters in dispute have been conclusively resolved; and
 - (b) Sections 182-1 through 182-12 inclusive and sections 182-16 and 182-17 of Article I of Chapter 182, Fences, of the Municipal Code of the former City of Toronto continue to apply to properties affected by a notice given in accordance with section 182-8A(1) of that Chapter prior to the date of enactment of this by-law until the matters in dispute have been conclusively resolved.

ENACTED AND PASSED this day of , 2001.

Mayor

Clerk

The Planning and Transportation Committee also submits the following report (May 7, 2001) from the City Clerk:

Purpose:

To bring to the Committee's attention implications identified by the City Clerk if Recommendation No. 2 of the above mentioned report (Report No. 5, Meeting No. 5, Planning and Transportation Committee Meeting of May 7, 2001) is adopted.

Financial Implications and Impact Statement:

Adoption of the above mentioned Recommendation No. 2 will result in a transfer of to the City Clerk. The City Clerk has determined that one additional staff person responsibility will be required to be allocated to Clerk's with funds required therefor drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process.

Recommendations:

It is recommended, in the event that Recommendation No. 2 of the Commissioner's Report entitled, "Harmonization of the Division Fence By-law" is adopted, that:

- (1) City Clerk's be allocated one additional staff person in order to carry out the additional responsibilities with funds required therefor drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process; and
- (2) This report, as adopted, be submitted to the Budget Advisory Committee for consideration as part of the 2002 budget process.

Background:

Recommendation No. 2 in the Commissioner's report would provide a city-wide arbitration process for neighbours to resolve fence disputes utilizing the Line Fences Act. Administration of this Act is statutorily assigned to the City Clerk.

Comments:

The Act provides a very administratively tedious arbitration process (see Appendix "A" of the Commissioner's report) and Clerk's would go from handling 10 applications per annum currently in East York, York, Scarborough and Etobicoke to perhaps more than 100 city-wide. (See the Commissioner's report.)

This increased activity will come from former North York where no fence arbitration services are currently provided and former Toronto where Clerk's is involved only if an appeal from the City's Board of Arbitrators is made to the Province's Line Fence Referee. This one FTE will be split equally between City Clerk's in the Toronto and North York Civic Centres. Both offices will be required to provide information and counselling services plus the administration involved with the Line Fences Act currently available through City Clerk's in East York, York, Scarborough and Etobicoke (20 hours per file x 100 = 2000 hours = 1.3 FTE's.)

Conclusions:

If Recommendation No. 2 of the Commissioner's Report entitled, "Harmonization of the Division Fence By-law" is adopted, it is recommended that the responsibility and staff resource implications identified in this report be acknowledged by the adoption of the recommendations herein.

Contact:

Paul Jones, Director, Legislative Services
Tel: (416) 392-4373, Fax: (416) 392-1867
E-Mail: pjones@city.toronto.on.ca

The Planning and Transportation Committee also submits the following transmittal letter (July 14, 2000) from the City Clerk:

I am enclosing for your information and any attention deemed necessary, Clause No. 2 contained in Report No. 6 of The Planning and Transportation Committee, headed "Harmonization of the Division Fence By-law", which was before the Council of the City of Toronto at its meeting held on July 4, 5 and 6, 2000.

Council directed that this Clause be struck out and referred back to the Planning and Transportation Committee for further consideration, together with the following motions; and the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee, for consideration therewith, on the impact of the proposed amendments, such report to address, in particular, the financial implications relative to the motion by Councillor Moscoe to delete Clause No. (5), headed "Public Highway", from the proposed Division Fence By-law:

Moved by Councillor Bossons:

"That the Clause be amended:

- (1) to provide that Section 5 of the proposed Division Fence By-law apply to front fences only; and
- (2) by adding thereto the following:

It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee on the cost implications to the City if the City is held responsible for paying one-half of the cost of basic front or back yard fences.' "

Moved by Councillor Mammoliti:

"That the Clause be amended by adding thereto the following:

'It is further recommended that the Commissioner of Works and Emergency Services be requested to appoint as many members of existing staff he deems appropriate as Fence Arbitrators; that the Fence Arbitrators be granted the authority to make a final decision in the event of fence disputes; and that the by-law be amended accordingly.' "

Moved by Councillor Miller:

That the Clause be amended:

- (1) to provide that the by-law be amended to maintain the current provisions of the former City of Toronto by-law within the boundaries of the former City; and
- (2) by adding thereto the following:

It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee, in one year's time, on the operation of this system and whether methods to facilitate dispute resolution are required in the former Cities of Etobicoke, Scarborough, East York and North York, and how and whether the City of Toronto should apply for the required special legislation.' "

Moved by Councillor Bossons:

"That Part (1) of the motion by Councillor Miller be amended by adding thereto the following words:

'on the condition that fees be increased in order to pay as fully as possible for the cost of fence viewing/arbitration.' "

Moved by Councillor Mihevc:

"That Part (1) of the motion by Councillor Miller be amended to provide that fence viewers be continued and expanded in all former municipalities, and further that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee on how this could be accomplished."

Moved by Councillor Moscoe:

"That the Clause be amended to provide that Clause No. (5), entitled 'Public Highway', be deleted from the proposed Division Fence By-law."

(Clause 2 embodied in Report No. 6 of the Planning and Transportation Committee, which was before the Council of the City of Toronto at its Meeting held on July 4, 5 and 6, 2000)

(City Council on July 4, 5 and 6, 2000, struck out and referred this Clause back to the Planning and Transportation Committee for further consideration, together with the following motions; and the Commissioner of Urban Development Services was requested to submit a report to the

Planning and Transportation Committee, for consideration therewith, on the impact of the proposed amendments, such report to address, in particular, the financial implications relative to the motion by Councillor Moscoe to delete Clause No. (5), headed “Public Highway”, from the proposed Division Fence By-law:

Moved by Councillor Bossons:

“That the Clause be amended:

- (1) to provide that Section 5 of the proposed Division Fence By-law apply to front fences only; and
- (2) by adding thereto the following:

‘It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee on the cost implications to the City if the City is held responsible for paying one-half of the cost of basic front or back yard fences.’ ”

Moved by Councillor Mammoliti:

“That the Clause be amended by adding thereto the following:

‘It is further recommended that the Commissioner of Works and Emergency Services be requested to appoint as many members of existing staff he deems appropriate as Fence Arbitrators; that the Fence Arbitrators be granted the authority to make a final decision in the event of fence disputes; and that the by-law be amended accordingly.’ ”

Moved by Councillor Miller:

“That the Clause be amended:

- (1) to provide that the by-law be amended to maintain the current provisions of the former City of Toronto by-law within the boundaries of the former City; and
- (2) by adding thereto the following:

‘It is further recommended that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee, in one year’s time, on the operation of this system and whether methods to facilitate dispute resolution are required in the former Cities of Etobicoke, Scarborough, East York and North York, and how and whether the City of Toronto should apply for the required special legislation.’ ”

Moved by Councillor Bossons:

“That Part (1) of the motion by Councillor Miller be amended by adding thereto the following words:

‘on the condition that fees be increased in order to pay as fully as possible for the cost of fence viewing/arbitration.’ ”

Moved by Councillor Mihevc:

“That Part (1) of the motion by Councillor Miller be amended to provide that fence viewers be continued and expanded in all former municipalities, and further that the Commissioner of Urban Development Services be requested to submit a report to the Planning and Transportation Committee on how this could be accomplished.”

Moved by Councillor Moscoe:

“That the Clause be amended to provide that Clause No. (5), entitled ‘Public Highway’, be deleted from the proposed Division Fence By-law.”)

(City Council on June 7, 8 and 9, 2000, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on July 4, 2000.)

The Planning and Transportation Committee recommends that authority be granted for the introduction of the necessary Bill in Council, substantially in the form of the draft by-law appended to the report (March 1, 2000, from the Commissioner of Urban Development Services.

The Planning and Transportation Committee submits the following report (March 1, 2000) from the Commissioner of Urban Development Services:

Purpose:

To report on the harmonization of the division fence by-law.

Financial Implications and Impact Statement:

In 1999, the City received a total of \$7,610.00 in application fees related to fence viewing. As the existing program is intended to be revenue neutral, the revenue is offset by the need to appoint fence viewers to attend and investigate the circumstances surrounding a request for arbitration.

Recommendation:

It is recommended that the attached draft division fence by-law be received and forwarded to all Community Councils for their review and comment for the next meeting of the Committee.

Background:

As part of our program to harmonize by-laws of the former municipalities, we have directed our attention to a by-law to deal with the apportionment of costs for the construction, repair and replacement of division fences on private property.

The only municipalities that adopted a by-law to deal with costs related to division fences were the former Cities of Toronto and North York.

In the case of the former City of Toronto, a by-law was adopted pursuant to the City of Toronto Act, 1972 (No.2) which provides for the resolution of fence disputes by an arbitration panel consisting of representatives of the City and both disputing parties. The provisions of the Line Fences Act apply in respect of enforcement of and appeal from an award of the panel.

The City of North York elected to enact a by-law under the provisions of paragraph 27 of section 210 of the Municipal Act. Where the property owners are not in agreement on the details of the fence to be constructed, the adjoining owner is required to pay a maximum of fifty (50) percent of the cost of a basic four (4) foot chain link fence. In order to assist owners, an information package is made available.

Scarborough, East York, Etobicoke and York all relied upon the provisions of the Line Fences Act whereby fence viewers are appointed to attend and investigate the circumstances surrounding a request for arbitration. For the most part these requests result in an award which divides the cost equally between the parties.

Comments:

We have gathered information on the number of applications considered by the former municipalities during 1998 and 1999. As you will see from the following chart, the numbers are by no means excessive.

Municipality	Process	Fee	Applications – 1998	Application – 1999
Toronto	Chapter 182	\$100	109	65
North York	By-law 29830	None	No application required	No application required
York	Line Fences Act	\$60 +	2	0
Scarborough	Line Fences Act	\$210	8	1
Etobicoke	Line Fences Act	\$150	2	6
East York	Line Fences Act	\$110	0	0

We have been advised by the City Solicitor that only two options are presently available to the City: Either adopt a by-law pursuant to the provisions of paragraph 27 of section 210 of the Municipal Act as recommended in this report, or to appoint fence viewers pursuant to the Line Fences Act. Special legislation would be required to extend the application of the former City of Toronto by-law to the new City as a whole.

The numbers reflected in the above chart (approximately 70-120 applications a year City wide) would not in our view warrant initiating the administrative process of appointing fence viewers under the Line Fences Act.

Under the proposed by-law, an application (and applicable fee) for a fence viewer would not be required.

Conclusions:

The newly harmonized division fence by-law is designed to ensure that all property owners are treated fairly and that where there is no agreement on a fence, the adjoining owner be required to pay no more than fifty (50) percent of the cost of a basic four (4) foot chain link fence.

If, after review by Community Councils, the Committee finds it desirable to adopt the by-law, it is suggested that the City Solicitor, in consultation with the Commissioner of Urban Development Services, be authorized to prepare and introduce in Council a bill substantially in the form of the attached draft by-law.

The form of the draft by-law has been reviewed and approved by the City Solicitor.

Contact:

E. Gino Vescio
Sr. Policy & Research Officer, Policy and Business Planning Unit
Municipal Licensing and Standards
Telephone: 392-8769
Fax: 392-8805

Authority:
Adopted by Council:

CITY OF TORONTO

BY-LAW No. –2000

For determining how the cost of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under the Provincial Offences Act.

WHEREAS Council has the authority under paragraph 27 of section 210 of the Municipal Act, R.S.O.1990, c.M.45, to pass this by-law;

Now therefore, the Council of the City of Toronto HEREBY ENACTS as follows:

1. General

(1) In this by-law,

(a) “Basic Cost” means the cost of installing a 1.2 metre high steel chain link fence as a division fence;

- (b) “City” means the City of Toronto;
- (c) “Division Fence” means a fence marking or substantially marking the boundary between adjoining parcels of land;
- (d) “Owner” means the registered owner of land and includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on his or her own account or as agent or trustee of any other person, or who would so receive the rent if such land or premises were leased, and shall include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for maintenance and occupancy of property.

2. Apportionment of Costs

- (1) Subject to subsection (3), an Owner wishing to construct, repair or replace a Division Fence shall send by registered mail a written notice of his or her intention to the Owner of the adjoining lands at least fourteen (14) days prior to the commencement of any work or the execution of any contract in relation to the work to be undertaken.
- (2) Where an Owner lawfully constructs, repairs or replaces a Division Fence, the Owner of adjoining lands shall be required to pay the lesser of:
 - (a) fifty percent (50%) of the actual cost of the work completed; and
 - (b) fifty percent (50%) of Basic Cost,provided that, in the case of repair or replacement, the repair or replacement is reasonably necessary to comply with City by-laws.
- (3) An Owner is not required to comply with subsection (1) before undertaking repairs to a Division Fence where the City has issued a notice or order to the Owner requiring that the repairs be carried out.
- (4) Where an Owner repairs a Division Fence so as to comply with a notice or order issued by the City, the Owner of the adjoining lands shall be required to pay fifty percent (50%) of the reasonable cost of the necessary repairs.

3. Agreement between Owners of Adjoining Lands

Section 2 does not apply where the Owners of adjoining lands have entered into a written agreement with respect to the apportionment of the cost of constructing, repairing or replacing a Division Fence.

4. Enforcement

An Owner desiring to recover amounts owing under this by-law shall serve or cause to be served on the Owner of the adjoining lands a notice by registered mail requiring compliance with the By-law and if such compliance does not take place within

thirty (30) days after service of the notice, the Owner serving the notice may take appropriate proceedings under the Provincial Offences Act to recover the amount owing from the Owner of the adjoining lands.

5. Public Highway

This by-law does not apply to an Owner of lands that constitute a public highway in respect of such lands.

6. Repeal and Transition

(1) The following are repealed:

- (a) By-law No. 29830 of the former City of North York.
- (b) Sections 182-1 through 182-12 inclusive and sections 182-16 and 182-17 of Article I of Chapter 182, Fences, of the Municipal Code of the former City of Toronto.

(2) Despite subsection (1):

- (a) By-law No. 29830 of the former City of North York continues to apply to properties affected by a notice given in accordance with section 3 of By-law No. 29830 prior to the date of enactment of this by-law until the matters in dispute have been conclusively resolved; and
- (b) Sections 182-1 through 182-12 inclusive and sections 182-16 and 182-17 of Article I of Chapter 182, Fences, of the Municipal Code of the former City of Toronto continue to apply to properties affected by a notice given in accordance with section 182-8A(1) of that Chapter prior to the date of enactment of this by-law until the matters in dispute have been conclusively resolved.

ENACTED AND PASSED this day of , 2000.

Mayor

Clerk

The Planning and Transportation Committee also submits the following transmittal letter (May 3, 2000) from the City Clerk, East York Community Council:

Recommendation:

The East York Community Council, at its meeting on May 2, 2000, advised the Planning and Transportation Committee that it supports the proposed division fence by-law attached to the report (March 1, 2000) from the Commissioner of Urban Development Services.

Background:

The East York Community Council had before it a report (March 23, 2000) from the City Clerk, Planning and Transportation Committee, forwarding the report (March 1, 2000) from the Commissioner, Urban Development Services, with respect to the harmonization of the division fence by-law for review and report thereon to the Planning and Transportation Committee, together with the following proposed amendment:

“That the report be amended by directing that the Committee of Adjustment be advised that a standard condition of severance from any rail line for reasons of safety, is the installation of a 2.5 metre chain link fence as a standard to the satisfaction of the Commissioner of Urban Development Services”; and

further advising that the City Solicitor has been requested to report to the Planning and Transportation Committee on the foregoing proposed amendment when this matter returns to the Committee.

The Planning and Transportation Committee also submits the following transmittal letter (May 4, 2000) from the City Clerk, Etobicoke Community Council:

The Etobicoke Community Council at its meeting held on May 3, 2000, received the communication (March 23, 2000) from the City Clerk, Planning and Transportation Committee, respecting the harmonization of the Division Fence By-law.

Background:

The Etobicoke Community Council had before it a communication (March 23, 2000) from the City Clerk, Planning and Transportation Committee, advising that the Planning and Transportation Committee at its meeting held on March 21, 2000:

- (1) adopted the report dated March 1, 2000, from the Commissioner, Urban Development Services, headed “Harmonization of the Division Fence By law”, and in so doing forwards the report to all Community Councils for review and report back to the Planning and Transportation Committee;
- (2) forwarded to each Community Council, for consideration with the aforementioned report, the following amendment proposed by the Planning and Transportation Committee:

“That the report be amended by directing that the Committees of Adjustment be advised that a standard condition of severance from any rail line for reasons of safety, is the installation of a 2.5 metre chain link fence as a standard to the satisfaction of the Commissioner of Urban Development Services”; and

- (3) requested the City Solicitor to report to the Planning and Transportation Committee on the proposed amendment when this matter returns to the Committee for consideration.

The Planning and Transportation Committee also submits the following transmittal letter (May 3, 2000) from the City Clerk, North York Community Council:

Recommendation:

The North York Community Council, on May 2, 2000, recommended to the Planning and Transportation Committee that:

- (1) the harmonized Division Fence By-law, attached to the report (March 1, 2000) from the Commissioner, Urban Development Services, be adopted; and
- (2) the amendment to the above-noted report, proposed by the Planning and Transportation Committee, embodied in the communication (March 23, 2000) from the City Clerk, Planning and Transportation Committee, be adopted.

Background:

The North York Community Council had before it a communication (March 23, 2000) from the City Clerk, Planning and Transportation Committee, advising that the Planning and Transportation Committee:

- (1) adopted the report (March 1, 2000) from the Commissioner, Urban Development Services with respect to the Harmonization of the Division Fence By-law and in so doing forwarded this report to all Community Councils for their review and report back to the Planning and Transportation Committee; and
- (2) forwarded to each Community Council for their consideration with the above-noted report, the following amendment proposed by the Planning and Transportation Committee:

“That the report be amended by directing that the Committees of Adjustment be advised that a standard condition of severance from any rail line for reasons of safety, is the installation of a 2.5 metre chain link fence as a standard to the satisfaction of the Commissioner of Urban Development Services”.

The Planning and Transportation Committee also submits the following transmittal letter (May 4, 2000) from the City Clerk, Toronto Community Council:

Community Council Action:

The Toronto Community Council advises the Planning and Transportation Committee of its endorsement of the draft by-law attached to the report (March 1, 2000) from the Commissioner of Urban Development Services, and the proposed amendment by the Planning and Transportation Committee.

Background:

The Toronto Community Council, on May 2, 2000, had before it a communication (March 23, 2000) from the City Clerk, Planning and Transportation Committee, respecting Harmonization of the Division Fence By-law, and forwarding the report (March 1, 2000) from the Commissioner of Urban Development Services.

The Toronto Community Council's action is noted above.

The Planning and Transportation Committee also submits the following transmittal letter from the City Clerk, Scarborough Community Council:

The Scarborough Community Council, at its meeting held on May 2, 2000, deferred the following report to its next meeting scheduled to be held on May 23, 2000.

Background:

The Scarborough Community Council on May 2, 2000, had before it a communication (March 23, 2000) from the City Clerk, forwarding the report (March 1, 2000) from the Commissioner of Urban Development Services regarding the Harmonization of the Division Fence By-law, with a request that the Community Council submit its comments thereon to the Planning and Transportation Committee.

The Planning and Transportation Committee also submits the following report (May 4, 2000) from the City Solicitor:

Purpose:

To advise, as requested, on a standard condition of severance requiring the installation of a 2.5 metre chain link fence along railway lines.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendation:

It is recommended that this report be received for information.

Background:

At its meeting of March 21, 2000, the Planning and Transportation Committee requested that the City Solicitor report on whether a standard condition requiring the installation of a 2.5 metre chain link fence may be placed on a severance of land owned by the railway.

Comments:

The Planning Act, authorizes the Committee of Adjustment to impose conditions on any consent to sever, so long as the conditions are reasonable. The caselaw suggests that on an appeal, the Ontario Municipal Board will look to whether the proposed condition is necessary, equitable, reasonable and relevant having regard to the unique facts of each case.

The Committee of Adjustment is required to have regard among other matters, to the health and safety of the community when considering a consent application. Given that railway lines may be dangerous in an urban setting without appropriate safety measures, the 2.5 metre fencing would most likely be considered an appropriate condition to place on the severance.

Conclusions:

Conditions may be placed on a severance of land owned by the railway provided that the conditions are reasonable. The installation of a 2.5 metre chain link fence is in keeping with the objective of maintaining the health and safety of the community and could be considered an appropriate standard condition of severance for applications adjacent to railway lands.

(City Council on June 7, 8 and 9, 2000, had before it, during consideration of the foregoing Clause, the following communication (May 25, 2000) from the City Clerk:

Recommendation:

The York Community Council submits this matter to Council without recommendation.

Background:

The York Community Council on May 23, 2000 had before it a communication (March 23, 2000) from the City Clerk, advising that the Planning and Transportation Committee:

- (1) adopted the report (March 1, 2000) from the Commissioner, Urban Development Services with respect to the Harmonization of the Division Fence By-law and in so doing forwarded this report to all Community Councils for their review and report back to the Planning and Transportation Committee; and
- (2) forwarded to each Community Council for their consideration with the above-noted report, the following amendment proposed by the Planning and Transportation Committee:

“That the report be amended by directing that the Committees of Adjustment be advised that a standard condition of severance from any rail line for reasons of safety, is the installation of a 2.5 metre chain link fence as a standard to the satisfaction of the Commissioner of Urban Development Services”.

(Communication dated March 23, 2000 addressed to
the Community Councils from the City Clerk)

The Planning and Transportation Committee:

- (1) adopted the report (March 1, 2000) from the Commissioner, Urban Development Services with respect to the Harmonization of the Division Fence By-law and in so doing forwarded this report to all Community Councils for their review and report back to the Planning and Transportation Committee; and
- (2) forwarded to each Community Council for their consideration with the above-noted report, the following amendment proposed by the Planning and Transportation Committee:

“That the report be amended by directing that the Committees of Adjustment be advised that a standard condition of severance from any rail line for reasons of safety, is the installation of a 2.5 metre chain link fence as a standard to the satisfaction of the Commissioner of Urban Development Services”.

For the information of Community Councils, the Planning and Transportation Committee reports having requested the City Solicitor to report to the Planning and Transportation Committee on the proposed amendment when this matter returns to the Committee for consideration.

Background:

At its meeting on March 21, 2000, the Planning and Transportation Committee gave consideration to the report (March 1, 2000) from the Commissioner of Urban Development Services, reporting on the harmonization of the division fence by-law and recommending that the attached draft division fence by-law be received and forwarded to all Community Councils for their review and comment for the next meeting of the Committee.

(City Council on May 30, 31 and June 1, 2001, had before it, during consideration of the foregoing Clause, the following report (May 16, 2001) from the Commissioner of Urban Development Services:

Purpose:

To report on a process by which the City may, in unique circumstances, share the cost of fences erected along public highways, as requested by the Planning and Transportation Committee, at its meeting of May 7, 2001.

Financial Implications and Impact Statement:

There is no financial implication resulting from the adoption of this report.

Recommendation:

It is recommended that the Commissioner of Urban Development Services, in consultation with the necessary City departments, be requested to investigate the possibility of establishing a grants programme to allow the City, in unique circumstances, to assist with the cost of erecting fences along public highways and report thereon to the Planning and Transportation Committee.

Background:

At its meeting of May 7, 2001, the Planning and Transportation Committee recommended the adoption of a city-wide arbitration process for neighbours to resolve fence disputes utilizing the Line Fences Act, as set out in Report No. 5, Clause No. 3 of the Planning and Transportation Committee.

Section 25(1) of the Line Fences Act reads as follows:

“Act does not apply to public highways

25.--(1) Despite sections 23 and 24, this Act does not apply to any lands that constitute a public highway including lands abutting a public highway that are held as a reserve by a municipality or other public authority to separate lands abutting the reserve from the public highway.”

The Committee requested that staff report to City Council on a process by which the City may, in unique circumstances, share the cost of fences erected along public highways.

Comments:

It may be possible to establish a grants programme to assist with or share the cost of erecting fences along public highways. The general municipal grant-making authority is derived from Section 113 of the Municipal Act, which states:

“...the Council of every municipality may, subject to section 111 [which prevents bonusing], make grants, on such terms and conditions as to security and otherwise as the council may consider expedient, to any person, institution, association, group or body of any kind, including a fund, within or outside the boundaries of the municipality for any purpose that, in the opinion of the council, is in the interests of the municipality.”

Before staff can recommend the adoption of such a programme, further research and consultation with Legal Services and various other City departments will be necessary in relation to such matters as establishing a set of criteria for eligibility for the grant, which department(s) will fund and administer the programme, establishing a cap on the amount of the grant, and other matters.

Conclusions:

A grant programme may be possible to deal with unique circumstances where the City may wish to consider contributing to the cost of fences erected along public highways.

Further research and consultation with Legal Services and various other City departments will be necessary prior to making any recommendation on a programme.

Should Council wish to pursue a programme to share the cost of fences erected abutting a public highway, it is recommended that City Council refer the matter of a report on a process by which the City may, in unique circumstances, share the cost of fences erected along public highways, to the Commissioner of Urban Development Services, in consultation with the necessary City departments, for a report to the Planning and Transportation Committee.

This report has been prepared in consultation with Legal Services.

Contact:

E. Gino Vescio

Sr. Policy and Research Officer, Policy and Business Planning Unit

Municipal Licensing and Standards

Telephone: 392-8769, Fax: 392-8805, email: gvescio@city.toronto.on.ca

(City Council also had before it, during consideration of the foregoing Clause, the following joint report (May 16, 2001) from the City Clerk and the Commissioner of Urban Development Services:

Purpose:

To report directly to City Council on the costs involved in adopting the Line Fences Act to arbitrate fence disputes between neighbours as recommended by the Planning and Transportation Committee at its meeting on May 7, 2001.

Financial Implications and Impact Statement:

The adoption of a programme of fence viewing pursuant to the Line Fences Act on a city-wide basis to address disputes related to line fences will result in a transfer of responsibilities to the City Clerk. The City Clerk has determined that one additional staff person will be required to be allocated to Clerk's offices with funds required therefore to be drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process.

Recommendations:

It is recommended that:

- (1) the Schedule of Fees set out in this report be adopted;*
- (2) the Office of the City Clerk be allocated one additional staff person in order to carry out the additional responsibilities with funds required therefore drawn from the fees collected as a result of the adoption of the Line Fences Act arbitration process; and*
- (3) the appropriate City officials be authorized to take the necessary action to give effect thereto.*

Background:

At its meeting of May 7, 2001, the Planning and Transportation Committee recommended the adoption of a city-wide arbitration process for neighbours to resolve fence disputes utilizing the Line Fences Act. Administration of this Act is statutorily assigned to the City Clerk. The Committee requested that staff report to Council on whether the application fees proposed are sufficient to cover the costs of administering this programme entirely and, if not, provide suggested application fees necessary in order to ensure that the programme is conducted on a full cost recovery basis.

Comments:

The Act provides an administratively complex arbitration process (see Appendix "A" of the report of the Commissioner of Urban Development Services dated April 11, 2001). It is anticipated that the workload for the City Clerk would increase from the administering of ten (10) applications per annum currently in East York, York, Scarborough and Etobicoke to perhaps more than 100 city-wide.

This increased activity will come from the former City of North York where no fence arbitration services are currently provided and the former City of Toronto where the City Clerk is involved only if an appeal from the City's Board of Arbitrators is made to the Provincial Line Fence Referee. The additional one full-time equivalent (FTE) will be split equally between the offices of the City Clerk in Toronto City Hall and the North York Civic Centre. Both offices will be required to provide information and counselling services plus the administration involved with the Line Fences Act currently available through the offices of the City Clerk in the civic centres in East York, York, Scarborough and Etobicoke.

In order to ensure that the programme is conducted on a full cost recovery basis, it is estimated that the staff costs alone associated with the introduction of this programme will be \$780.00 staff cost/file. This is based upon the following assumptions:

<i>Estimated time per application:</i>	<i>20 hours per file</i>
<i>Estimated number of application per year:</i>	<i>100 files per annum</i>
<i>Estimated staffing impact:</i>	<i>20 hours per file x 100 files = 2000 hours which represents 1.33 FTE's</i>
<i>Estimated cost for one FTE:</i>	<i>\$60,000.00 (\$43,000.00 salary + 23% benefits + \$7,000.00 equipment, furnishings and other start-up costs)</i>
<i>Estimated staff cost per application:</i>	<i>\$780.00 (\$78,000 (1.33 FTEs) ÷ 100 files)</i>

The additional fees associated with an application made pursuant to this programme are itemized in the following schedule.

Recommended Schedule of Fees

<i>Service</i>	<i>Fee</i>	<i>Justification</i>
<i>Application Package</i>	<i>\$20.00</i>	<i>Will contain application, overview of process and questions and answers, copy of Municipal Code Chapter 447-Fences.</i>
<i>Basic Application Fee</i>	<i>\$780.00</i>	<i>Costs related to staff time and other costs relating to the administration of the programme as estimated by the City Clerk's Office. (See above calculation)</i>

<i>Service</i>	<i>Fee</i>	<i>Justification</i>
<i>Registered Letter</i>	<i>\$5.00 each</i>	<i>Cost of registration of letter. \$4.46</i>
<i>Fence Viewers</i>	<i>\$30.00 per hour (min. 3 hrs.) x 3 viewers</i>	<i>The fee for special inspections under Chapter 363, Building Construction and Demolition, is \$60.00 per hour.</i>
<i>Certificate of Award</i>	<i>\$20.00</i>	<i>Similar to existing Clerk's fee for certification of material.</i>
<i>Registry</i>	<i>\$25.00 per registration</i>	<i>Similar to existing registration fees in place in Clerk's Office.</i>
<i>Default Collection (tax roll)</i>	<i>\$75.00</i>	<i>Fee suggested by Finance Dept. to reflect cost recovery.</i>

Conclusions:

The preceding sets out the fees required to be charged by City Clerk's to cover the costs of the administration of the Line Fences Act on a full cost recovery basis.

Contacts:

Paul Jones, Director, Legislative Services
Telephone (416) 392-4373; Fax: (416) 392-1867
E-Mail: pjones@city.toronto.on.ca

E. Gino Vescio, Senior Policy and Research Officer
Policy and Business Planning Unit, Municipal Licensing and Standards
Telephone: (416) 392-8769; Fax: (416) 392-8805
email: gvescio@city.toronto.on.ca