

Clause embodied in Joint Report No. 1 of the Planning and Transportation Committee and the Economic Development and Parks Committee, as adopted by the Council of the City of Toronto at its meeting held on February 13, 14 and 15, 2002.

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Float Homes and Year-Round Liveaboards on Parks and Recreation Property

(City Council on February 13, 14 and 15, 2002, amended this Clause by deleting Recommendation No. (8) of the joint Planning and Transportation and Economic Development and Parks Committees and inserting in lieu thereof the following:

“(8) (a) *Recommendation No. (1) of the further recommendations of the Joint Planning and Transportation and Economic Development and Parks Committees, as embodied in the confidential communication dated November 20, 2001, from the City Clerk, Planning and Transportation Committee, to City Council, be struck out and replaced with the following:*

‘(1) *that the Acting City Solicitor be directed to commence such legal action as deemed appropriate to seek an interpretation of the lease among the City, the Toronto and Region Conservation Authority and Bluffer’s Park Marina Limited to determine whether the lease permits the use of the leased property for residential or related purposes, including float homes and liveaboards, and to seek an injunction to prevent any additional float homes at Bluffer’s Park Marina until after such legal action has been concluded, and further, that the Acting City Solicitor be directed to take no action to implement any court decision against float home owners or liveaboards until after the results of such legal action have been reported to City Council;’; and*

(b) *Recommendation No. (2) of the further recommendations of the Joint Planning and Transportation and Economic Development and Parks Committees, as embodied in such communication, be adopted, such recommendation to remain confidential, in accordance with the provisions of the Municipal Act, having regard that it contains information which is subject to Solicitor/Client privilege.”)*

(City Council on December 4, 5 and 6, 2001, deferred consideration of this Clause to the next regular meeting of City Council scheduled to be held on February 13, 2002.)

The joint Planning and Transportation and Economic Development and Parks Committee recommends that:

- (1) float homes be prohibited on City of Toronto Parks and Recreation property, and that the City Solicitor be instructed to give effect thereto;**
- (2) the concept of a license fee for liveaboards (as opposed to floating homes) use of boats at all City of Toronto owned facilities be approved in principle and that the Commissioner of Economic Development Culture and Tourism and the Acting Chief Financial Officer be requested to report further on the implementation of a license fee for liveaboard boats including appropriate fees, collection methods, and required legal authorities;**
- (3) in the event that Council adopts a policy to permit a percentage of liveaboards (as opposed to float homes), staff be requested to canvass Boat Clubs for their interest in being allowed to accommodate liveaboards at their locations, and that an initial assessment of infrastructure and life safety requirements be conducted at those locations which request consideration to determine the appropriateness of such requests, and that the Commissioner of Economic Development, Culture and Tourism be requested to report further on the outcome;**
- (4) City Council's decision with respect to this matter be forwarded to the Toronto and Region Conservation Authority for their information and consent as appropriate;**
- (5) the Commissioner of Economic Development, Culture and Tourism be requested to consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, and the Chief Administrative Officer of the Toronto and Region Conservation Authority to determine the minimum infrastructure, emergency services, and landscaping requirements for float homes and/or year round liveaboards on Parks and Recreation property;**
- (6) the Government of Canada be requested to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under Bill C-14 (the *Canada Shipping Act, 2001*), if the Bill is passed by the Senate and given Royal Assent;**
- (7) the Government of Ontario be requested to address year-round residence on moored boats as part of the Property Tax Classification Review and any other applicable legislative or regulatory review, and consider developing standards for Ontario float homes; and**
- (8) the further recommendations of the joint Planning and Transportation and Economic Development and Parks Committee contained in the confidential communication dated November 20, 2001, from the City Clerk, Planning and Transportation Committee be adopted, and that, in accordance with the Municipal Act, discussions pertaining to this matter be held in camera having regard that the subject matter involves receiving advice that is subject to solicitor-client privilege.**

The Planning and Transportation Committee submits the following communication (October 25, 2001) from the City Clerk, Etobicoke Community Council:

Recommendation:

The Etobicoke Community Council at its meeting held on October 24, 2001, recommended to the Economic Development and Parks Committee and the Planning and Transportation Committee the adoption of:

- (1) the following Options contained in Recommendation No. (2) of the report dated October, 2001, from the Commissioner, Economic Development, Culture and Tourism:
 - (a) Option (b), amended, as follows:
 - “(b) all float homes be prohibited on Parks and Recreation property, and all existing float homes be given up to two years to re-locate;”;
 - (b) Option (e), subject to deleting all references to “float homes”; and
- (2) Recommendations Nos. (3), (4) and (5).

The Etobicoke Community Council reports, for the information of the Economic Development and Parks Committee and the Planning and Transportation Committee, having:

- (1) forwarded the report dated October 2, 2001, from the Commissioner, Economic Development, Culture and Tourism, to the Toronto and Region Conservation Authority for comment thereon to the Economic Development and Parks Committee and the Planning and Transportation Committee for its joint meeting scheduled to be held on November 15, 2001; and
- (2) requested the Chief Financial Officer and the City Solicitor in conjunction with the Commissioner of Economic Development, Culture and Tourism, to investigate the feasibility of a licensing scheme to control liveaboards and submit a report thereon to the Economic Development and Parks Committee and the Planning and Transportation Committee for its joint meeting scheduled to be held on November 15, 2001.

Background:

The Etobicoke Community Council had before it a report (October 2, 2001) from the Commissioner, Economic Development, Culture and Tourism, providing further information, as requested by the Economic Development and Parks Committee at its meeting held on May 14, 2001, regarding year-round residence on boats moored on Parks and Recreation property; identifying policy options; and recommending that:

- (1) the Scarborough Community Council, the Toronto East York Community Council, and the Etobicoke Community Council consider this report and its recommendations, and forward any comments thereon to the joint meeting of Economic Development and Parks Committee and Planning and Transportation Committee on November 15, 2001;

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- (2) Council select one of the following policy options to address year-round residence on boats moored at commercial marinas and boat club locations leased from the City of Toronto:
- (a) no formal policy be adopted or directions provided to staff in respect to float homes and year-round liveaboards; or
 - (b) all float homes and year-round liveaboards be prohibited on Parks and Recreation property, and staff be directed to remove all existing float homes and year-round liveaboards as soon as possible; or
 - (c) new float homes and year-round liveaboards be prohibited on Parks and Recreation property, but existing float homes and liveaboards be permitted, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the Toronto and Region Conservation Authority (TRCA) where applicable; or
 - (d) float homes and year-round liveaboards be permitted generally on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable; or
 - (e) a limited number of float homes and year-round liveaboards be permitted on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable, with the number of slips available for year-round use being determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism on a location-by-location basis, again subject to the consent of the TRCA where applicable, but in any case the number will not exceed a certain percentage of existing wet mooring spaces, exclusive of temporary mooring spaces, within the lease area at boat club locations and commercial marinas operated under a lease with the City;
- (3) the Commissioner of Economic Development, Culture and Tourism consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, and the Chief Administrative Officer of the TRCA to determine minimum infrastructure, emergency service, and landscaping requirements for float homes and year-round liveaboards on Parks and Recreation property;
- (4) the Government of Canada be requested to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under Bill C-14 (*Canada Shipping Act, 2001*), if the Bill is passed by the Senate and given Royal Assent;
- (5) the Government of Ontario be requested to address year-round residence on moored boats as part of the Property Tax Classification Review and any other applicable legislative or regulatory review, and consider developing standards for Ontario float homes;

- (6) this report be forwarded to the TRCA, requesting that the Authority provide any comments thereon to the Economic Development and Parks Committee for its meeting on November 19, 2001; and
- (7) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

The following persons appeared before the Etobicoke Community Council in connection with this matter:

- Mr. Brian Knoll, Chair, Council of Commodores;
- Mr. Wayne Lewis, Etobicoke;
- Mr. Brian Monrad, Etobicoke; and filed a submission with respect thereto;
- Ms. Dawn Gardham, Commodore, Lakeshore Yacht Club; and
- Ms. Debbie Wagdin, Toronto.

(Report dated October 2, 2001 from the Commissioner of Economic Development, Culture and Tourism, addressed to Scarborough Community Council; Toronto East York Community Council and Etobicoke Community Council)

Purpose:

To report, as requested, with further information regarding year-round residence on boats moored on Parks and Recreation property, and to identify policy options for this matter.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) the Scarborough Community Council, the Toronto East York Community Council, and the Etobicoke Community Council consider this report and its recommendations, and forward any comments thereon to the joint meeting of Economic Development and Parks Committee and Planning and Transportation Committee on November 15, 2001;
- (2) Council select one of the following policy options to address year-round residence on boats moored at commercial marinas and boat club locations leased from the City of Toronto:

- (a) no formal policy be adopted or directions provided to staff in respect to float homes and year-round liveaboards; or
 - (b) all float homes and year-round liveaboards be prohibited on Parks and Recreation property, and staff be directed to remove all existing float homes and year-round liveaboards as soon as possible; or
 - (c) new float homes and year-round liveaboards be prohibited on Parks and Recreation property, but existing float homes and liveaboards be permitted, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the Toronto and Region Conservation Authority (TRCA) where applicable; or
 - (d) float homes and year-round liveaboards be permitted generally on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable; or
 - (e) a limited number of float homes and year-round liveaboards be permitted on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable, with the number of slips available for year-round use being determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism on a location-by-location basis, again subject to the consent of the TRCA where applicable, but in any case the number will not exceed a certain percentage of existing wet mooring spaces, exclusive of temporary mooring spaces, within the lease area at boat club locations and commercial marinas operated under a lease with the City;
- (3) the Commissioner of Economic Development, Culture and Tourism consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, and the Chief Administrative Officer of the TRCA to determine minimum infrastructure, emergency service, and landscaping requirements for float homes and year-round liveaboards on Parks and Recreation property;
 - (4) the Government of Canada be requested to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under Bill C-14 (the *Canada Shipping Act, 2001*), if the Bill is passed by the Senate and given Royal Assent;
 - (5) the Government of Ontario be requested to address year-round residence on moored boats as part of the Property Tax Classification Review and any other applicable legislative or regulatory review, and consider developing standards for Ontario float homes;
 - (6) this report be forwarded to the TRCA, requesting that the Authority provide any comments thereon to the Economic Development and Parks Committee for its meeting on November 19, 2001; and

- (7) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

On October 3, 4, 5, 6, 10, 11 and 12, 2000, Council considered a Clause entitled “Year-Round Residence on Boats Moored on Parks and Recreation Property” (Clause No. 13 of Report No. 9 of the Economic Development and Parks Committee). The Clause was struck out and referred back to the Economic Development and Parks Committee for further consideration, together with the following motion:

“It is further recommended that the Commissioner of Economic Development, Culture and Tourism be requested to seek the advice of the Ontario Property Assessment Corporation (OPAC) with respect to the applicability of property taxes on boats that are used as year-round residences on Parks and Recreation property and submit a report thereon to the Economic Development and Parks Committee.”

On May 14, 2001, the Economic Development and Parks Committee considered a report (April 19, 2001) from the Commissioner of Economic Development, Culture and Tourism on the above matters.

The Committee:

- (1) referred the report (April 19, 2001) back to the Commissioner of Economic Development, Culture and Tourism together with the following amendments:
- (a) Recommendation No. (1) be amended to read:
 - (1) “a policy be adopted permitting year-round residence on boats and other vessels moored at marinas and boat club locations leased from the City of Toronto subject to appropriate infrastructure and emergency services being available and that the policy be applicable to land owned by the Toronto and Region Conservation Authority (the “TRCA”) only with the consent of the TRCA;”;
 - (b) Recommendation No. (3) be amended to read:
 - (3) “the number of slips available for year-round use be determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism, or his designate, subject to the consent of the TRCA where applicable, on a location by location basis, but in any case, the number will not exceed 10 percent of the total approved mooring spaces available at yacht club locations, and 20 percent of mooring spaces at commercial marinas operated under a lease with the City;”;

(c) Recommendation No. (4) be amended to read:

- (4) “existing leases be amended as required to accommodate this policy and that the policy be reflected in any new or renewed leases, subject to the consent of the TRCA, where applicable;”;

for a further report, such report to include a legal review of enforcing prohibition during non-boating season and a legal definition of vessels under federal legislation, particularly with regard to regulations respecting floating housing versus navigational housing; and

- (2) requested that the aforementioned report be submitted to the East Community Council for consideration and report thereon to the Economic Development and Parks Committee for its meeting of July 9, 2001:

(April 19, 2001) from the Commissioner of Economic Development, Culture and Tourism, establishing a consistent and workable policy with regard to residence on a year-round basis on boats or other vessels moored at leased boating facilities on Parks and Recreation property; reporting, as requested, on the applicability of property taxes on boats used as year-round residences; and recommending that:

- (1) a policy be adopted permitting year-round residence on boats and other vessels moored at marinas and boat club locations leased from the City of Toronto subject to appropriate infrastructure and emergency services being available;
- (2) the Commissioner of Economic Development, Culture and Tourism consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, and the Chairman of the Toronto Police Services Board and the Chief Administrative Officer and Secretary Treasurer of the Toronto and Region Conservation Authority, to determine minimum infrastructure and emergency service requirements;
- (3) the number of slips available for year-round use to be determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism, or his designate, on a location by location basis, but in any case, the number will not exceed 10 percent of the total approved mooring spaces available at yacht club location, and 20 percent of mooring spaces at the commercial marinas operated under a lease with the City;
- (4) existing leases be amended as required to accommodate this policy and that the policy be reflected in any new or renewed leases; and
- (5) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto (Clause No. 19(e) of Report No. 5 of the Economic Development and Parks Committee, adopted by Council on May 30, 31 and June 1, 2001).

On June 12, 2001, the East Community Council:

- (1) deferred this matter for consideration at the Community Council meeting scheduled to be held on September 12, 2001;

- (2) referred a copy of the report from the Commissioner of Economic Development, Culture and Tourism (April 19, 2001) to Mr. Tom Wappel, M.P., Scarborough Southwest, for his information and consideration in the review of the *Canada Shipping Act*;
- (3) directed that the operators of the Bluffer's Park Marina be requested not to permit any additional floating structures prior to City Council's consideration of this matter; and
- (4) request the Commissioner of Economic Development, Culture and Tourism to provide further information to the Community Council meeting in September on the following issues with respect to floating structures:
 - (i) policies/actions of other municipalities in this regard;
 - (ii) the provision of emergency, Police/Fire, etc., services;
 - (iii) taxation applied to these structures;
 - (iv) planning/zoning controls that can be applied;
 - (v) the history of this issue in the former City of Scarborough; and
 - (vi) any other issues deemed pertinent.

On July 9, 2001, the Economic Development and Planning Committee received a report from the Acting City Clerk on the East Community Council's meeting of July 12, 2001 and requested the Commissioner of Economic Development, Culture and Tourism to:

- (a) write a letter to Bluffer's Park Marina requesting that no further structures be built prior to City Council's consideration of this matter; and
- (b) include in the requested report to Scarborough Community Council for its meeting in September with respect to floating structures, the waterfront areas throughout the City.

On July 24, 25 and 26, 2001, Council directed that the report requested by the East Community Council also be forwarded to the Planning and Transportation Committee and all other Community Councils impacted by the issue (Clause No. 21(d) of Report No. 7 of the Economic Development and Parks Committee).

This report provides the additional information requested and outlines policy options to address year-round residence on boats moored on Parks and Recreation property.

Comments:

Overview of the Existing Situation:

It is important to distinguish between two types of boats currently used for year-round residence on Parks and Recreation property. A "liveaboard" is a vessel intended primarily for use in navigation and used incidentally as a residence. Liveaboards in Toronto are typically yachts. "Float homes" are house-like structures incorporating a floatation system, intended for use or being used or occupied for residential purposes and not primarily intended for, or usable in, navigation. Examples of float homes in Toronto are those structures built by Ichor Marine Development Corporation and located at Bluffer's Park Marina.

The Parks and Recreation Division leases 17 boat club locations and two commercial marinas. A 2000 survey revealed that 18 vessels were used for year-round residence at the boat clubs, and another 60 vessels were used for this purpose at the marinas. Year-round residence is specifically prohibited in leases held by the Lakeshore Yacht Club (Col. Sam Smith Park) and Toronto Island Marina. While the other leases do not have specific language that prohibits year-round residence, an argument can be made that the implied intention is for the leases to be for seasonal use.

Bluffer's Park Marina has arranged with Ichor Marine to provide year-round mooring for float homes built and sold by the latter. There are currently 23 float homes moored at the marina. Consistent with Council's instructions, the Commissioner of Economic Development, Culture and Tourism sent a letter (July 26, 2001) to the marina operator requesting that no further structures be placed at Bluffer's prior to City Council's consideration of this matter.

This policy review is not aimed at boaters who occasionally live aboard their vessels during the boating season (i.e., summer). Parks and Recreation staff deem this to be an acceptable recreational activity similar to that which occurs at the City's Glen Rouge campground.

Previous Municipal and Conservation Authority Decisions:

The liveaboards issue has been considered by Toronto-area municipalities and public agencies for over a decade without a firm policy direction being set.

A 1990 Metro Toronto survey found that 107 persons were residing year-round on 62 boats at marinas and boat clubs on Metro parkland. About 75 percent of the liveaboard population was located at Bluffer's Park Marina, which had apparently supported liveaboards since 1987. This prompted Metro's Parks, Recreation and Property Committee to request comments on liveaboards from the Cities of Scarborough, Toronto, and Etobicoke and the Metropolitan Toronto and Region Conservation Authority (MTRCA).

Etobicoke decided "that Metropolitan Toronto be advised that the use of boats as permanent year-round residence should not be permitted in the areas under Metropolitan Toronto's jurisdiction in Etobicoke" (Clause No. 18-G-91 of the General Committee, adopted by Etobicoke City Council on January 21, 1991).

The MTRCA decided "that Metropolitan Toronto, in negotiating new lease agreements, make provisions for the prohibition of 'liveaboards' during the non-boating season, between haul-out and launch, and of 'grey water' discharge within small craft harbours under ownership and management of Metropolitan Toronto and the MTRCA" and "that Metropolitan Toronto be requested to take all reasonable steps to ensure that the concerns of the Scarborough, Toronto and Etobicoke Fire Departments are addressed for existing 'liveaboard' situations on the Metropolitan waterfront" (Report of the Water and Related Land Management Advisory Board, adopted by the Authority on March 22, 1991).

Toronto decided "that Metropolitan Toronto be advised to consider, in consultation with the MTRCA, the prohibition of grey water discharge in Metro-owned marinas and yacht clubs through future provisions in the lease agreements" and "that Metropolitan Toronto be advised that if liveaboards do continue to exist during the non-boating season in Metro-owned marinas

and yacht clubs, Metro should take all reasonable steps to address the concerns of the Toronto Fire Department” (Clause No. 9 of Report No. 3 of the Land Use Committee, adopted by Toronto City Council on February 25 and 26, 1991).

Scarborough decided “that Council advise Metro that the City of Scarborough has no objection to liveaboards provided that Metro takes responsibility for safety and public health issues, through its lease agreements with the marinas and yacht clubs” (Clause No. 3 of Report No. 9 of the Administrative Committee, adopted by Scarborough City Council on April 13, 1992).

Metro staff subsequently recommended “that Metropolitan Council adopt a policy to preclude ‘live-aboards’ from property intended for recreational purposes under the jurisdiction of Metropolitan Toronto on the Metropolitan waterfront; and all future leases or licence documentation of such Metropolitan property contain a prohibition of ‘live-aboards’.” Metro Council received the Clause and took no further action on the matter (Clause No. 1 of Report No. 10 of the Parks, Recreation and Property Committee, adopted by Metro Council on August 11, 1993).

Role of the Toronto and Region Conservation Authority:

Most of the marina and boat club locations leased by the City are on property owned by the TRCA and managed, under agreement with the City, by the Parks and Recreation Division. The TRCA’s resource management interests along the Toronto waterfront include: protecting, enhancing, and rehabilitating aquatic and terrestrial habitats; environmental monitoring; and reducing the risk of erosion. The discharge of grey water directly to surface waters, alterations to coastal processes, and impacts on fish habitat are concerns raised by the TRCA in regard to liveaboards and float homes. As registered owner of the lands in question, the TRCA should be requested to comment on the City’s policy options, consent to the City’s policy and lease agreements, and assist the Commissioner of Economic Development, Culture and Tourism in determining minimum infrastructure requirements.

The TRCA also has a regulatory role. Bluffer’s Park Marina has proposed constructing a dock to accommodate additional float homes. Under Ontario Regulation 158 (fill, construction and alterations to waterways), the Marina is required to apply to the TRCA for a permit for this work. TRCA staff have indicated that the application will be reported on to the TRCA Executive Committee once a City policy is in place. The City Solicitor has advised that the project requires amending both the Bluffer’s Park Master Plan (involving approvals by the City, the TRCA, and Fisheries and Oceans Canada) and the marina lease. This matter will come to the Scarborough Community Council once City Council has decided on a policy respecting float homes and year-round liveaboards.

Legal Definition of Vessel:

The Economic Development and Parks Committee requested “a legal definition of vessel under federal legislation, particularly with regard to regulations respecting floating houses versus navigational housing”. The City Solicitor advises that “vessel” is defined differently in over 20 different federal statutes and appears to be a broad category, covering all kinds of waterborne craft. The definitions are broad and inclusive, not exclusive, leaving room for various types of craft to fall under this category.

Two definitions of “vessel” expressly include floating homes (*Marine Transportation Security Act* and *Fishing and Recreational Harbours Act*), and most others definitions are broad enough to include floating homes by implication. In the *Canada Shipping Act*, “vessel” is broadly defined as “... any ship or boat or any other description of vessel used or designed to be used in navigation”. “Ship” includes every description of vessel not propelled by oars and, for registration, licensing and some related purposes, every description of lighter, barge or like vessel however propelled. Floating homes are thus vessels under the *Canada Shipping Act*, whether they is equipped with their own propulsion system or, like a unpowered barge, rely upon towing for propulsion.

The definition of “vessel” varies from statute to statute and is meant to be specific to that particular statute or Regulation only. Generally, the areas of consistency include the fact that the method or lack of propulsion does not matter; the “vessel” is either designed for or capable of navigation through water; and there is usually a residual category, i.e., boat of any kind, or other floating craft.

The City Solicitor presumes the term “navigational housing” used by the Economic Development and Parks Committee to mean a boat that is also used as a home (e.g., a houseboat), as opposed to a floating home, which connotes a house-like structure on a floating platform. The term “navigational housing” is not defined or used in the legislation reviewed, and it has not been found in the relevant case law. The reason is likely because both floating homes and houseboats are navigable, although they may not exist primarily for that purpose. In Black’s Law Dictionary, “navigate” is taken to mean able to steer on or through water. Both structures are capable of navigation, although not very easily or necessarily of their own power.

The federal government has exclusive constitutional jurisdiction over shipping and navigation. The *Canada Shipping Act*, a federal statute, regulates vessels (which currently include floating homes) and the registration or licensing of vessels.

Bill C-14 (the *Canada Shipping Act, 2001*) was passed by the House of Commons in May, 2001 and is now on the Senate’s fall agenda. The Bill defines a vessel as “a boat, ship or craft designed, used or capable of being used solely or partly for navigation in, on, through or immediately above water, without regard to method or lack of propulsion, and includes such a vessel that is under construction. It does not include a floating object of a prescribed class.” Transport Canada staff have advised that the prescribed class will address house-like structures built on a floatation system that are not intended primarily for or useable in navigation. The intent is to remove such floating objects from federal regulation.

The process for adopting new regulations under Bill C-14 could take as long as six years. Assuming that the Bill will be passed by the Senate and given Royal Assent, Council should encourage the federal government to move quickly to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under the *Canada Shipping Act, 2001*. This will enhance the capacity of provincial and municipal authorities to regulate float homes.

Planning and Building Controls:

City parkland along the waterfront is subject to policies in the official plans (OPs) of the former Cities of Etobicoke, Toronto, and Scarborough and Metro Toronto. All City-leased boat club and marina locations are designated as “Open Space” in the Etobicoke, Toronto, and Scarborough OPs and “Metropolitan Green Space System” in the Metro OP. Open Space and Parks policies in the Scarborough and Toronto OPs refer to providing opportunities for recreation and public access, and do not mention residential uses. Open Space policies in the Etobicoke OP do not permit residential uses. The Metro OP requires Area Municipal OPs and zoning by-laws to maintain lands in the Waterfront Corridor primarily in a natural state, while allowing for certain non-residential uses and facilities.

City parkland along the waterfront is also subject to various zoning by-laws enacted by the former Cities of Etobicoke, Toronto, and Scarborough. Generally, only the land is zoned; in some cases, land under water is also zoned, with zoning restrictions pertaining to structures on that land such as docks and mooring slips which are on piles. In all cases, residential uses are not permitted.

The City Solicitor has advised that, in the absence of a direct conflict between municipal land use planning instruments and superior legislation (i.e., federal or provincial statutes or regulations), municipalities have the right to zone and designate for and against float homes. As noted above, liveaboards and float homes fall within the exclusive jurisdiction of the federal government. However, Canadian Courts have held that the federal government and a municipality may exercise concurrent jurisdiction when areas of federal and municipal power overlap, providing the doctrine of paramountcy or the interjurisdictional immunity principle are not applicable. If federal legislation is in conflict with a municipal by-law (e.g., zoning by-law), the doctrine of paramountcy is enacted and the by-law is deemed inoperable.

The Chief Planner and Executive Director of City Planning has advised that liveaboards and float homes will not be addressed directly in Toronto’s new Official Plan. The OP will set out the general uses permitted for each land use designation. The proposed “Parks and Valleylands” designation will not permit any residential uses.

The City Solicitor has advised that a float home is not a “building” within the meaning of Ontario Building Code and is not subject to City by-laws relating to building permits and development charges. Neither the Code nor the *Building Code Act* deal with floating structures. Liveaboards and float homes are currently “vessels” within the meaning of the *Canada Shipping Act*, and it is not constitutionally lawful for the Ontario legislature to make laws in relation to shipping. Consequently, the *Building Code Act* will be interpreted by the Courts as not applicable to vessels, however broad and general the definition of “building” may be.

Similarly, the Ontario Fire Code does not apply to boat construction or boat safety equipment. The Small Vessel Regulations made under the *Canada Shipping Act* refer only to the need for certain fire extinguishers, and are not oriented to the residential use of small boats.

It is appropriate that this report be forwarded to the Minister of Municipal Affairs and Housing, requesting the provincial government to address liveaboards and float homes as part of any applicable legislative or regulatory review (e.g., *Municipal Act*, Ontario Building Code) in light of the *Canada Shipping Act, 2001*, and consider developing standards for float homes as has been done by the Province of British Columbia.

Enforcing Prohibitions During the Non-Boating Season:

The Economic Development and Parks Committee requested a “legal review of enforcing prohibition during the non-boating season”. Existing liveaboards and float homes are not permitted in City parkland under the Uniform Parks By-law, which states that “unless authorized by permit, no person shall dwell, camp or lodge in any park.” The by-law outlines enforcement measures. If Council decides to prohibit year-round residence on boats, enforcing the prohibition will require regular staff patrol of the waterfront areas to determine the existence of any violations. As none of the existing marina or boat club leases expressly allow for or contemplate year-round use, the City can take appropriate legal action against the City’s marina or boat club tenants for breaching the provisions of their leases. However, it should be anticipated that such action will involve a lengthy and expensive process.

Minimum Infrastructure and Emergency Service Requirements:

Parks and Recreation staff have consulted with Works and Emergency Services staff to determine concerns regarding year-round residence on boats. The winter fire risk on yachts not properly equipped with winter-grade insulation and heating units has been a longstanding issue. Despite the lack of applicability of the Fire Code, several techniques have been identified to improve service, such as numbering all moorings and maintaining a fire safety plan for locations with liveaboards and float homes.

To ensure that life and safety issues are addressed to the maximum extent possible, it is appropriate that the Fire Chief, the General Manager of Emergency Medical Services, the Chief Building Official and Executive Director of Building, and the Chief of Police assist the Commissioner of Economic Development, Culture and Tourism in determining minimum infrastructure and emergency service requirements for liveaboards and float homes.

Taxation Applied to Liveaboards and Float Homes:

Parks and Recreation staff have repeatedly asked the Ontario Property Assessment Corporation (OPAC) to clarify the applicability of property taxes on boats used as year-round residences.

The City has attempted to determine that, if liveaboards and float homes represent dwellings for people on a year-round basis, should they not be taxed on the same premise as an individual residential property owner; and, if not, why these properties would not be subject to a separate residential assessment. The Assessment Commissioner for the City of Toronto has responded that due to the possibility of affecting various municipalities province-wide, the matter is still being reviewed by OPAC.

In July, 2001, the provincial Minister of Finance announced the second phase of the review of property classes under the assessment system. Besides addressing the number, scope and definition of property classes and sub-classes, the review will examine the assessment methodology applied to “unique properties.” It is appropriate that this report be forwarded to the provincial government in respect to the Property Tax Classification Review, in order to help resolve the City’s assessment and taxation issues regarding liveaboards and float homes.

Since 1974, the City of Vancouver has tackled the property tax issue through the imposition of liveaboard licence fees. The City levies a licence fee on private marina owners for each moored liveaboard boat; the fee is also levied, in addition to moorage fees, directly on liveaboard boat owners at Vancouver’s civic marinas. The purpose of this fee is to ensure that those residents who live aboard their boats contribute to the provision of public services in a manner similar to those who occupy assessable real property. The comparison with property tax is made, as it is the mechanism through which other residents pay for public services. The actual fee is based on property taxes paid by condominium owners in the vicinity.

Liveaboards and Float Homes in Other Jurisdictions:

As requested by the East Community Council, Parks and Recreation staff have investigated how other jurisdictions are dealing with liveaboards and float homes. Staff undertook a telephone survey of 12 Ontario municipalities on Lake Ontario, three Ontario “cottage country” municipalities, as well as Ontario Place, Harbourfront, the Toronto Port Authority (TPA), and the City of Vancouver. The matter was also discussed Ministry of Municipal Affairs and Housing staff.

Most of the Ontario municipalities surveyed use lease conditions to prohibit liveaboards outright (e.g., Burlington, Oakville, Barrie) or restrict the activity to the summer (e.g., Hamilton) or a limited number of consecutive nights (e.g., Stoney Creek). Whitby uses its zoning by-law to prohibit residential use. Oshawa has 15 liveaboards on City property and levies a 10 percent lease surcharge to recover additional municipal costs. Mississauga allows a maximum of 10 liveaboard slips on City property (about 5 percent of total mooring spaces), and charges liveaboards more per foot than regular slips; there are another 85 liveaboard boats at a private marina. Liveaboards are becoming an issue in Pickering’s private marinas and a report to Council is expected.

Ontario Place, Harbourfront, and the TPA all require boats to be equipped with engines, eliminating the prospect of float homes. Ontario Place and the TPA restrict liveaboards to the summer using permits and lease conditions; Ontario Place has a five-boat limit. Harbourfront has 10 year-round liveaboards; like the TPA, it does not limit the number of mooring spaces that can be allocated to liveaboards. The TPA is concerned with garbage handling and the unsightly storage of materials on its liveaboards.

The Province of British Columbia and its municipalities have developed the most comprehensive approach to regulating liveaboards and float homes. As noted above, the Province has a float home standard which is being implemented through municipal by-laws (e.g., North Cowichan), and municipalities like Vancouver have long charged a liveaboard licence fee as a substitute for property tax. Year-round residence on boats is also controlled through a variety of land use tools, including Official Development Plans and Official Community Plans (e.g., Vancouver and Richmond), zoning by-laws (e.g., Sidney), and development permits (e.g., Vancouver).

Policy Options:

Parks and Recreation staff have taken the position that year-round residence on boats is both an illegal and inappropriate use of property acquired and developed for parks, recreation, and conservation purposes. However, no Council direction has been provided (and no staff action has been taken) to remove either float homes or year-round liveaboards. The City has, to some extent, condoned these residential uses by allowing them to exist over an extended period.

The City's commercial marina operators maintain that liveaboards and float homes are a normal and important part of their business, that this type of use is within the provisions of their leases, and that the City gains additional revenue. The boat clubs, which have had a limited number of boaters living year-round at some locations for many years, have generally supported the liveaboard concept, as it represents an important lifestyle choice for some sailors and improves security at club sites.

The interests of the marinas and boat clubs must be weighed against those of the broader community. The latter interests include: the health, safety, environmental, and property tax concerns outlined above; noise, traffic, and visual impacts on adjacent neighbourhoods; and potential demands for the City to provide infrastructure and services that, under normal planning procedures, would be borne by the developer. Moreover, a policy of allowing liveaboards and float homes introduces expectations that liveaboard residents have a right to a certain range and level of municipal services to be provided, even where there may be no legal obligation to provide those services. Such expectations may increase the City's exposure to liability where the City is unwilling or unable to effectively deliver those services.

Five policy options to deal with float homes and year-round liveaboards have been developed for Council's consideration.

The first option is to not establish a policy or provide direction to staff in respect to existing or future float homes and year-round liveaboards. This option, representing the status quo and Council's implicit position for nearly 10 years, will likely result in increased unmanaged residential use of City parkland.

The second option is to affirm the "no dwelling" provisions of the Uniform Parks By-law and establish a policy of removing all existing year-round liveaboards and float homes. While this option expresses a will to retain parkland for recreational rather than residential use, the removal process would likely be protracted, expensive, and subject to legal challenge.

The third option is to establish a policy of no new year-round residences while sanctioning the existing float homes and liveaboards on Parks and Recreation property. This option avoids removal costs, but treats the waterfront unevenly and is unfair to those boat clubs and marinas who have previously sought staff approval for year-round residence at their locations.

The fourth option is to generally permit float homes and year-round liveaboards on Parks and Recreation property, subject to limited infrastructure and emergency service requirements being defined by staff. This option, like the first, would likely result in the ad hoc development of floating residential communities with minimal control by Council. Of the five options outlined here, this option would likely result in the greatest conversion of City parkland to residential use.

The fifth option is to permit a limited number of float homes and year-round liveaboards on Parks and Recreation property. Approvals would occur on a location-by-location basis, subject to various conditions being met and the appropriate infrastructure being provided without cost to the City. The number of slips available for year-round use at any location should be determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism, but in any case the number should not exceed a certain percentage of existing wet mooring spaces (exclusive of temporary moorings) within the lease area. Under this option, more City parkland would likely be lost to residential use than under the third option, but less relative to the first and fourth options. This option attempts to manage the existing situation and set clear limits and expectations for liveaboard and float home development, maximizing City control over an issue where municipal regulatory powers are presently inadequate.

Regardless of the policy option chosen by Council, the consent of the TRCA will be required where the Authority's property is affected.

If Council adopts a policy on float homes and year-round liveaboards, Parks and Recreation staff will make every effort to persuade the marina and boat club tenants to agree to amend their leases to reflect the policy. However, the City cannot unilaterally make changes to a signed and binding agreement, or impose additional fees not contemplated in the lease, without the written consent of the other party. Existing leases will be amended as required and where possible to accommodate Council's policy, and the policy will be reflected in any new or renewed leases, again subject to the consent of the TRCA where applicable.

Conclusions:

Float homes and year-round liveaboards now occupy both City parkland and a policy vacuum on the part of the City government. Given Ichor Marine's recent marketing campaign to sell and place float homes in marinas leased by the City, the issue of year-round residence on boats moored on Parks and Recreation property will become increasingly contentious. It is appropriate that Council consider the options presented here, and decide if, and under what conditions, residential uses should be permitted on City parkland.

The Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, the City Solicitor, and the Chief Administrative Officer of the TRCA have been consulted in the preparation of this report.

Contact:

John Macintyre
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The Planning and Transportation Committee also submits the following communication (October 25, 2001) from the City Clerk, Scarborough Community Council:

Recommendation:

The Scarborough Community Council reports having:

- (1) forwarded a confidential communication to the City Solicitor, requesting that he report, in camera, to the Joint Meeting of the Planning and Transportation Committee and the Economic Development and Parks Committee on November 15, 2001, the content of such communication to remain confidential having regard that the subject matter may involve litigation or potential litigation; and
- (2) requested the Acting Chief Financial Officer, in consultation with the City Solicitor, to report to the Joint Committee Meeting on the viability and proposed rates for license fees for float homes and liveaboards as a substitution for property taxes.

Background:

The Scarborough Community Council, at its meeting held on October 23, 2001, had before it a report (October 2, 2001) from the Commissioner of Economic Development, Culture and Tourism, recommending that:

- (1) the Scarborough Community Council, the Toronto East York Community Council and the Etobicoke Community Council consider this report and its recommendations and forward any comments thereon to the joint meeting of the Economic Development and Parks Committee and the Planning and Transportation Committee to be held on November 15, 2001;
- (2) Council select one of the following policy options to address year-round residence on boats moored at commercial marinas and boat club locations leased from the City of Toronto:
 - (a) no formal policy be adopted or directions provided to staff in respect to float homes and year-round liveaboards; or
 - (b) all float homes and year-round liveaboards be prohibited on Parks and Recreation property, and staff be directed to remove all existing float homes and year-round liveaboards as soon as possible; or
 - (c) float homes and year-round liveaboards be prohibited on Parks and Recreation property, but existing float homes and liveaboards be permitted, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the Toronto and Region Conservation Authority (TRCA) where applicable; or
 - (d) float homes and year-round liveaboards be permitted generally on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable; or

- (e) a limited number of float homes and year-round liveaboards be permitted on Parks and Recreation property, subject to appropriate infrastructure, emergency services, and landscaping being available and the consent of the TRCA where applicable, with the number of slips available for year-round use being determined solely at the discretion of the Commissioner of Economic Development, Culture and Tourism on a location-by-location basis, again subject to the consent of the TRCA where applicable, but in any case the number will not exceed a certain percentage of existing wet mooring spaces, exclusive of temporary mooring spaces, within the lease area at boat club locations and commercial marinas operated under a lease with the City;
- (3) the Commissioner of Economic Development, Culture and Tourism consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, and the Chief Administrative Officer of the TRCA to determine minimum infrastructure, emergency service, and landscaping requirements for float homes and year-round liveaboards on Parks and Recreation property;
- (4) the Government of Canada be requested to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under Bill C-14 (the *Canada Shipping Act, 2001*), if the Bill is passed by the Senate and given Royal Assent;
- (5) the Government of Ontario be requested to address year-round residence on moored boats as part of the Property Tax Classification Review and any other applicable legislative or regulatory review, and consider developing standards for Ontario float homes;
- (6) this report be forwarded to the TRCA, requesting that the Authority provide any comments thereon to the Economic Development and Parks Committee for its meeting on November 19, 2001; and
- (7) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

The Community Council, during its consideration of the foregoing matter, had before it the following communications, all in opposition to the floating homes at Bluffer's Park Marina:

- (October 21, 2001) from Nik and Lisa Palekar;
- (October 18, 2001) from Shirley Zinman;
- (October 21, 2001) from Sandy Grigg;
- (October 17, 2001) from Sareh Wodlinger;
- (October 17, 2001) from Ross and Madeleine Bacon;
- (October, 2001) from Christopher E. Pay;
- (October 10, 2001) from Albert Roffey;
- (October 22, 2001) from Alice Hodgson; and
- (October 22, 2001) from Glenn Svarich; and

from its previous consideration of this matter, at its June 12, 2001, meeting:

(1) the following communications all in opposition to the floating homes at Bluffer's Park Marina:

- (June 2, 2001) from Peter Curry;
- (June 1, 2001) from J.R. Morris;
- (June 1, 2001) from Xavier Wynn-Williams;
- (June 2, 2001) from Glenn Svarich;
- (June 3, 2001) from Betty Eley;
- (June 4, 2001) from Mary Belford;
- (June 4, 2001) from David & Hilda Vair;
- (June 5, 2001) from Michael Robb;
- (June 5, 2001) from Lise Snajdr;
- (June 5, 2001) from Fred Vinzenz;
- (June 5, 2001) from Bruce Balmer;
- (June 5, 2001) from Shirley Zinman;
- (June 5, 2001) from William J Robinson and Margaret E. Robinson;
- (June 7, 2001) from Victoria Nassiri and Farhad Nassiri;
- (June 8, 2001) from Mr. & Mrs. Sanderson;
- (June 10, 2001) from Charles and Ann Dyer;
- (June 8, 2001) from Claudette and Benjamin Ippolito
- (June 10, 2001) from Nancy Angevine-Sands and Gary Sands;
- (June 11, 2001) from Bunday;
- (June 11, 2001) from Bruce Hamilton;
- (June 11, 2001) from Marion F. Stacey;
- (June 7, 2001) from Terry Ross;
- (June 7, 2001) from Patricia Kennedy;
- (June 8, 2001) from H-wyn Williams;
- (June 11, 2001) from Jim McLachlan;
- (June 11, 2001) from Sharon McLachlan;
- (June 11, 2001) from Lois Lorimer Nunn;
- (June 11, 2001) from Catelyn Thornton;
- (June 8, 2001) from Janet Carruthers; and
- (June 7, 2001) from Mark Nunn;

(2) (June 7, 2001) from George L. Rutley, General Manager, Bluffer's Park Marina, responding to a communication (May 30, 2001) from Councillor Ashton, and expanding on various issues surrounding the houseboats moored at Bluffer's Park Marina;

(3) the following communications from residents at Bluffer's Park Marina:

- (June 11, 2001) from Scott Harper,
- (June 11, 2001) from Anne Kelly; and
- (June 10, 2001) from Susan Nesbitt.

A copy of all communications was provided to Members of the Community Council, and a copy thereof is on file in the Office of the City Clerk, Scarborough Civic Centre.

The following persons appeared before the Community Council in connection with the foregoing matter:

- Brian Monrad, who tabled a communication, a copy of which was provided to all Members of the Community Council;
- Jim Johnston;
- Ed Green;
- Brian Knoll, Chair, Council of Commodores;
- Wayne Lewis, Vice Commodore, Etobicoke Marina; and
- John Stehmann.

The Planning and Transportation Committee also submits the following communication (October 25, 2001) from the City Clerk, Toronto East York Community Council:

Community Council Recommendations:

The Toronto East York Community Council recommends to the Economic Development and Parks and Planning and Transportation Committees, for its joint meeting to be held on November 15, 2001 that:

- (1) additional float homes at marinas and boat clubs leased from the City of Toronto be prohibited, and existing Float Homes at these locations be phased out as soon as possible;
- (2) year-round liveaboards on recreational vessels at marinas and boat clubs on Parks and Recreation sites be permitted, subject to the consent of the Commissioner of Economic Development, Culture and Tourism pursuant to the licensing scheme referred to in Recommendation No. (3);
- (3) the Commissioner of Economic Development, Culture and Tourism consult with the Commissioner of Works and Emergency Services, the Commissioner of Urban Development Services, the Chief of Police, and the Chief Administrative Officer of the TRCA to determine minimum infrastructure, emergency service, and landscaping requirements for year-round liveaboards on Parks and Recreation property, and to develop a licensing system for liveaboards at all locations within the jurisdiction of the City of Toronto;
- (4) the Commissioner of Economic Development, Culture and Tourism develop criteria to be used to determine the location of liveaboards.
- (5) the Government of Canada be requested to include float homes as part of the prescribed class of floating objects deemed not to be a vessel under Bill C-14 (the *Canada Shipping Act, 2001*), if the Bill is passed by the Senate and given Royal Assent;

- (6) the Government of Ontario be requested to address year-round residence on moored boats as part of the Property Tax Classification Review and any other applicable legislative or regulatory review, and consider developing standards for Ontario float homes;
- (7) the report (October 2, 2001) from the Commissioner of Economic Development, Culture and Tourism be forwarded to the TRCA, requesting that the Authority provide any comments thereon to the Economic Development and Parks Committee for its meeting on November 19, 2001; and
- (8) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Toronto East York Community Council, on October 23, 2001, had before it a report (October 2, 2001) from the Commissioner of Economic Development, Culture and Tourism respecting Float Homes and Year-Round Liveaboards on Parks and Recreation Property (Various Wards), and reporting, as requested, with further information regarding year-round residence on boats moored on Parks and Recreation property, and to identify policy options for this matter.

The Toronto East York Community Council also had before it the following communications:

- (October 22, 2001) from Jacqueline Courval, Co-Chair, Friends of the Spit; and
- submission (undated) from Brian Monrad.

The following persons appeared before the Toronto East York Community Council in connection with the foregoing matter:

- Brian Monrad;
- Brian Knoll, Council of Commodores;
- Wayne Lewis; and
- Lisa Raitt, Toronto Port Authority.

The Toronto East York Community Council's recommendations are noted above.

The Planning and Transportation Committee submits the following joint report (October 31, 2001) from the Acting Chief Financial Officer and the Commissioner of Economic Development, Culture and Tourism:

Purpose:

To respond to Scarborough Community Council request of October 23, 2001 for information on liveaboard licence fees, and recommend an approach to this matter for Parks and Recreation property.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that:

- (1) if Council adopts the policy of allowing year-round residence on float homes and/or liveaboards on Parks and Recreation property, a system of liveaboard licence fees be instituted based on the following principles:
 - (a) fees will be comparable to property taxes paid by residential condominium units in the area;
 - (b) fees will vary based on the length of boats at water line;
 - (c) fees will be levied on any boat or floating object which is used as a residence by one or more persons for a minimum of 60 consecutive or non-consecutive days during a calendar year;
 - (d) fees will be reviewed annually, with adjustments reflecting changes to residential property taxes;
 - (e) fees will be collected from the City's tenants (i.e., marina operators and boat clubs);
 - (f) the Commissioner of Economic Development, Culture and Tourism will administer fees for Parks and Recreation property, with revenues applied to the Parks and Recreation Division's operating budget; and
- (2) with the adoption of recommendation (1), the Acting Chief Financial Officer, the Commissioner of Economic Development, Culture and Tourism, and the City Solicitor be requested to report further on implementation issues, including calculation of rates, collection mechanisms, a recommended fee schedule, and the legality of applying liveaboard licence fees to non-Parks and Recreation property; and
- (3) the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Background:

In considering a report (October 2, 2001) from the Commissioner of Economic Development, Culture and Tourism on float homes and year-round liveaboards on Parks and Recreation property, Scarborough Community Council and Etobicoke Community Council requested the Acting Chief Financial Officer, the Commissioner of Economic Development, Culture and Tourism, and the City Solicitor to report on the feasibility of developing a liveaboard licence fee system. The City Solicitor is addressing related legal issues in a separate in camera report.

Comments:

Principles for a Liveaboard Licence Fee System:

As noted previously by the Commissioner of Economic Development, Culture and Tourism, the City of Vancouver has instituted liveaboard licence fees at civic and private marinas as a substitute for taxes on real property. Vancouver's fees have historically been compared with taxes levied on residential condominium properties, because occupancies of liveaboard boats and condominiums both benefit from public services in a similar manner.

The liveaboard fee system in Vancouver is based on a number of principles that are equally valid in Toronto:

- (i) fees should be comparable to property taxes paid by residential condominium units in the area;
- (ii) fees should vary based on the length of boats at water line;
- (iii) fees should be levied on any boat or floating object which is used as a residence by one or more persons for a minimum of 60 consecutive or non-consecutive days during a calendar year;
- (iv) fees should be reviewed annually, with adjustments reflecting changes to residential property taxes elsewhere in the City.

Other principles that should apply in Toronto include:

- (a) fees should be collected from the City's tenants (i.e., those marina operators and boat clubs which are party to a lease with the City), rather than its subtenants (i.e., individual liveaboard owners). Vancouver collects its fees from individual liveaboard owners at its two directly-operated civic marinas, and from marina operators at all private marinas;
- (b) the Commissioner of Economic Development, Culture and Tourism should administer fees for Parks and Recreation property, with revenues applied to the Parks and Recreation Division's operating budget;

The liveaboard licence fee will apply only to liveaboards (boats used incidentally for residential purposes), and not to float homes (boats used primarily for residential purposes). The Municipal Property Assessment Corporation (MPAC) has advised that a review of Ontario marinas has been completed and permanently located float homes (deemed by MPAC to be fixtures) have been included in a supplementary assessment. As a result, marinas will be receiving new assessment notices by about mid-November that incorporate the value of any float homes moored at their premises. The float homes will be assessed at the Multi-Residential rate in cases where more than seven units are located on one land parcel.

According to the City Solicitor, because the City's leases with marinas generally require the tenant to pay all taxes, the additional assessment will likely result in additional taxes being paid by the marinas. The marinas will presumably recover these additional taxes through higher mooring fees for float homes. This makes it unnecessary for the City to apply to float homes any additional fees intended to serve as a substitute for property taxes.

Future Work:

Should Council adopt a policy of allowing year-round residence on float homes and/or liveaboards on Parks and Recreation property and institute a system of liveboard licence fees, a further staff report is required to address implementation issues. This report should provide additional details on how fees will be calculated and collected and recommend a fee schedule. To ensure that all liveaboards are treated equitably across the City, it is also appropriate that staff review the legality of applying a licence fee to those marinas that are not on Parks and Recreation property.

Conclusions:

This report outlines principles that a system of liveboard licence fees should be based on, and recommends that fees be instituted if Council decides to allow float homes and/or liveaboards on Parks and Recreation property.

The City Solicitor has been consulted in the preparation of this report.

Contacts:

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Director of Central Services
Parks & Recreation Division
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Fax: 416 392-8565
e-mail: jmacint@city.toronto.on.ca

The following persons appeared before the joint Planning and Transportation Committee and the Economic Development and Parks Committee in connection with the foregoing matter:

- Jim Johnston
- George Rutley, General Manager, Bluffers Park Marina
- Allan Cheatley
- Wayne Lewis
- Brian Monrad
- Ed Green
- John Stehmann
- Neil Gillespie
- Christine Lawton

- Brian Wilson
- Vanessa Wischnewski
- Mickey Nehal

The joint Planning and Transportation Committee and Economic Development and Parks Committee also had before them the following communications and copies thereof are on file in the office of the City Clerks, City Hall:

- communications appended to the foregoing transmittal letter (October 25, 2001) from the City Clerk, Scarborough Community Council:

in opposition to the floating homes at Bluffer's Park Marina:

- (October 21, 2001) from Nik and Lisa Palekar;
- (October 18, 2001) from Shirley Zinman;
- (October 21, 2001) from Sandy Grigg;
- (October 17, 2001) from Sareh Wodlinger;
- (October 17, 2001) from Ross and Madeleine Bacon;
- (October, 2001) from Christopher E. Pay;
- (October 10, 2001) from Albert Roffey;
- (October 22, 2001) from Alice Hodgson; and
- (October 22, 2001) from Glenn Svarich; and

from its previous consideration of this matter, at its June 12, 2001, meeting:

- (1) the following communications all in opposition to the floating homes at Bluffer's Park Marina:

- (June 2, 2001) from Peter Curry;
- (June 1, 2001) from J.R. Morris;
- (June 1, 2001) from Xavier Wynn-Williams;
- (June 2, 2001) from Glenn Svarich;
- (June 3, 2001) from Betty Eley;
- (June 4, 2001) from Mary Belford;
- (June 4, 2001) from David & Hilda Vair;
- (June 5, 2001) from Michael Robb;
- (June 5, 2001) from Lise Snajdr;
- (June 5, 2001) from Fred Vinzenz;
- (June 5, 2001) from Bruce Balmer;
- (June 5, 2001) from Shirley Zinman;
- (June 5, 2001) from William J Robinson and Margaret E. Robinson;
- (June 7, 2001) from Victoria Nassiri and Farhad Nassiri;
- (June 8, 2001) from Mr. & Mrs. Sanderson;
- (June 10, 2001) from Charles and Ann Dyer;
- (June 8, 2001) from Claudette and Benjamin Ippolito
- (June 10, 2001) from Nancy Angevine-Sands and Gary Sands;
- (June 11, 2001) from Bunday;

- (June 11, 2001) from Bruce Hamilton;
 - (June 11, 2001) from Marion F. Stacey;
 - (June 7, 2001) from Terry Ross;
 - (June 7, 2001) from Patricia Kennedy;
 - (June 8, 2001) from H-wyn Williams;
 - (June 11, 2001) from Jim McLachlan;
 - (June 11, 2001) from Sharon McLachlan;
 - (June 11, 2001) from Lois Lorimer Nunn;
 - (June 11, 2001) from Catelyn Thornton;
 - (June 8, 2001) from Janet Carruthers; and
 - (June 7, 2001) from Mark Nunn;
- (2) (June 7, 2001) from George L. Rutley, General Manager, Bluffer's Park Marina, responding to a communication (May 30, 2001) from Councillor Ashton, and expanding on various issues surrounding the houseboats moored at Bluffer's Park Marina;
- (3) the following communications from residents at Bluffer's Park Marina:
- (June 11, 2001) from Scott Harper,
 - (June 11, 2001) from Anne Kelly; and
 - (June 10, 2001) from Susan Nesbitt;
- communications appended to the transmittal letter (October 25, 2001) from the City Clerk, Toronto East York Community Council:
- (October 22, 2001) from Jacqueline Courval, Co-Chair, Friends of the Spit; and
 - submission (undated) from Brian Monrad;
- Confidential report (November 1, 2001) from the City Solicitor reporting as requested by the Scarborough Community Council at its meeting on October 23, 2001, such report to be considered in-camera having regard that the subject matter relates to the receiving of advice that is subject to solicitor-client privilege, including communications necessary for that purpose;
- communication (October 25, 2001) from Albert Roffey suggesting that the Bluffers Park Marina's lease not be renewed and that the land be converted to parkland;
- communication (October 2, 2001) from Brian Monrad suggesting that Float Homes are primarily residences and should be banned from Parks, while Liveboards anywhere in the City should be regulated under a licensing scheme, and providing recommendations in this regard;
- communication (November 13, 2001) from Larry Field, Waterfront Specialist, Toronto and Region Conservation Authority forwarding a Toronto and Region Conservation Authority report of October 2, 2001 and the Toronto and Region Conservation Authority's position on Liveboards taken on March 22, 1991;

- communication (November 8, 2001) from David Banham, Lakefront Owners Association submitting comments on float homes and year-round liveaboards on Parks and Recreation Property;
- communication (October 21, 2001) from Glenn Svarick opposing houseboats at Bluffers Park;
- communication (October 23, 2001) from Carol Cassidy opposing liveaboards at Bluffers Park;
- communication (November 5, 2001) from George Rutley, General Manager, Bluffers Park Marina submitting comments with respect to the operation of the commercial marina at Bluffers Park;
- communication (November 13, 2001) from the City Clerk forwarding a fax from Thomas G. Parlette submitting comments on float homes at Bluffers Park;
- communication (October 18, 2001) from Jean Macdonald opposing float homes and year-round liveaboards on Parks and Recreation Property;
- communications from Ben G. Prowse, Neil Gillespie, Christine Lawton, Roger Bywater and Danny Bourne supporting liveaboards;
- communications from Carol Cassidy, Claudette Ippolito, Ben Ippolito and a petition from 31 residents opposing liveaboards;
- communication (November 11, 2001) from Wilma Balmer opposing liveaboards; and
- communication (November 12, 2001) from A. Tellez supporting liveaboards.

(City Council at its meeting on December 4, 5 and 6, 2001, had before it, during consideration of the foregoing Clause, a confidential communication (November 20, 2001) from the City Clerk forwarding recommendations from the joint meeting of the Planning and Transportation Committee and the Economic Development and Parks Committee, such communication to remain confidential, in its entirety, in accordance with the provisions of the Municipal Act, given that it is subject to solicitor-client privilege.)

(City Council also had before it, during consideration of the foregoing Clause, the following communications requesting that Council refer the issue of float homes and year-round liveaboards on Parks and Recreation property back to the joint Committee for further discussion:

- (a) (November 23, 2001) from Ms. Anne Kelly, Project Manager, Executive Writing Services, Communications and Information;
- (b) (November 27, 2001) from Ms. Anne Kelly, Project Manager, Executive Writing Services, Communications and Information, on behalf of herself and twenty concerned citizens;

- (c) (December 3, 2001) from Mr. Michael Simaan, Torkin Manes Cohen Arbus, Barristers and Solicitors, on behalf of a number of houseboat owners; and
- (d) Flyer submitted by Mr. Brian Wilson, entitled Save our Houseboats.)

(Having regard that City Council deferred consideration of this Clause to its next meeting scheduled to be held on February 13, 2002, the aforementioned communications will be resubmitted to Council.)

(City Council at its meeting on February 13, 14 and 15, 2002, again had before it, during consideration of the foregoing Clause, a confidential communication (November 20, 2001) from the City Clerk, forwarding the joint recommendations of the Planning and Transportation and Economic Development and Parks Committees, such communication to remain confidential, in accordance with the provisions of the Municipal Act, given that it contains information that is subject to solicitor-client privilege, save and except the following Recommendation No. (1) embodied therein, as amended by Council:

- “(1) that the Acting City Solicitor be directed to commence such legal action as deemed appropriate to seek an interpretation of the lease among the City, the Toronto and Region Conservation Authority and Bluffer’s Park Marina Limited to determine whether the lease permits the use of the leased property for residential or related purposes, including float homes and liveaboards, and to seek an injunction to prevent any additional float homes at Bluffer’s Park Marina until after such legal action has been concluded, and further, that the Acting City Solicitor be directed to take no action to implement any court decision against float home owners or liveaboards until after the results of such legal action have been reported to City Council; and”.)*

(City Council again had before it, during consideration of the foregoing Clause, a confidential report (November 1, 2001) from the City Solicitor, such report to remain confidential in its entirety, in accordance with the provisions of the Municipal Act, given that it contains information that is subject to solicitor-client privilege.)

(City Council also had before it, during consideration of the foregoing Clause, the following communications:

- (i) (November 23, 2001) from Ms. Anne Kelly, Project Manager, Executive Writing Services, Communications and Information, requesting that Council refer the issue of float homes and year-round liveaboards on Parks and Recreation property back to the joint Committee for further discussion;*
- (ii) (November 27, 2001) from Ms. Anne Kelly, Project Manager, Executive Writing Services, Communications and Information, on behalf of herself and 20 concerned citizens, forwarding comments regarding the issue of float homes and year-round liveaboards on Parks and Recreation property;*

- (iii) *(December 3, 2001) from Mr. Micheal Simaan, Torkin Manes Cohen Arbus, Barristers and Solicitors forwarding comments regarding the issues of float homes and year-round liveaboards on Parks and Recreation property;*
- (iv) *(undated) from Mr. Brian Wilson submitting information on behalf of other residents of Bluffer's Park Marina;*
- (v) *(undated) from Ms. Anne Kelly and Mr. Brian Wilson, Toronto Houseboat Association submitting information pertaining to the 24 houseboats moored at the Bluffer's Park Marina; and*
- (vi) *(February 11, 2002) from Mr. Bill Foster, Toronto Houseboat Association, submitting letters of support received through his web site, together with a copy of a petition containing approximately 500 signatures of individuals in support of the year-round mooring of houseboats at Bluffer's Park Marina.)*