

Licensing of Fraternity and Sorority Houses

Date:	June 14, 2011
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2011\Cluster B\MLS\LS11015

SUMMARY

This report is a response to a request from the Licensing and Standards Committee to have the Executive Director, Municipal Licensing and Standards bring forward a licensing proposal for Fraternities and Sororities.

After consultations with City divisions, area residents, and representatives of the Fraternity and Sorority houses, staff have concluded that Fraternities and Sororities can neither be licensed as businesses, under Toronto Municipal Code Chapter 545, Licensing, nor under the former City of Toronto's Municipal Code Chapter 285, Rooming Houses.

In the course of consultations, staff discovered that the issues of noise, garbage and other nuisances were not exclusively attributed to the residents of Fraternity and Sorority houses, but also to other student residents in the area, as well as visitors to the local nightclubs. As such, staff will be undertaking a multi-pronged comprehensive approach to more effectively address the issues identified.

The City Solicitor was consulted in the preparation of this report.

FINANCIAL IMPACT

There is no financial impact arising from the proposals in this report beyond what has already been approved in the current year's operating budget for Municipal Licensing and Standards.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its March 30, 2011 meeting, the Licensing and Standards Committee requested that the Executive Director, Municipal Licensing and Standards, report back to the Committee on a licensing proposal for Fraternities and Sororities.

(<http://www.toronto.ca/legdocs/mmis/2011/ls/bgrd/backgroundfile-36733.pdf>)

ISSUE BACKGROUND

There is a concentration of Fraternity and Sorority Houses located in Ward 20, Trinity Spadina. The population of these houses consists mainly, but not exclusively of undergraduate students attending at the St. George campus of the University of Toronto. The Fraternity and Sorority houses are often converted large single family homes located off campus on city streets amongst other residential homes. There is a lengthy history of the Fraternity and Sorority residents failing to meet the expectations of their full-time neighbours, with most of the complaints respecting noise and property standards issues, especially garbage, arising from behavioural issues, especially excessive partying.

At public consultations with residents of the area, it became quite clear that the primary cause for concern were disturbances in the early hours of the mornings which the full-time residents believed were largely perpetrated by members (both residents and visitors) of Fraternities and Sororities.

COMMENTS

As a result of the ongoing issues, residents have suggested that greater regulation, perhaps licensing, should be imposed to increase the regulatory leverage over Fraternities and Sororities. This reports examines the viability of this proposal and describes the actions that Municipal Licensing and Standards is prepared to undertake to address the issues in the community.

Fraternities and Sororities

Fraternal organisations around the world have existed for centuries. Fraternities and Sororities, or “Greek letter organisations” as they are often called to differentiate them from other fraternal groups, are social organisations for undergraduate students only (often referred to as “actives”). The Phi Beta Kappa Society, founded in 1776 at the College of William and Mary in Williamsburg, Virginia, is generally recognised as the first Greek-letter student society in North America and is also credited with establishing the “chapter” system at different campuses, following the pattern of the Masonic lodges. Most Fraternities and Sororities present themselves as societies to help their members

better themselves in a social setting. They can be specifically organised for service to the community, for professional advancement, or for scholastic achievement.

There are several large national organisations in the United States with hundreds of chapters. Several national fraternities also have chapters in Canada. The central business offices of these organisations, commonly referred to as "Nationals", may place certain requirements on individual chapters to standardise rituals and policies regarding membership, housing, finances, or behaviour. These policies are generally codified in a constitution and bylaws. Virtually all Fraternities and Sororities have adopted some version of governance with executive officers who report to a board of trustees, and a 'legislative' body consisting of periodic conventions of delegates from all the chapters.

Members of Fraternities and Sororities often live together in a large house or distinct part of the university dormitories. This is intended to emphasize the bonds of brotherhood or sisterhood and to provide a place of meeting for the members of the organisation as well as alumni. For reasons of cost, liability, and stability, housing is usually owned or overseen by an alumni corporation or the organization's national headquarters.

Licensing of Fraternities and Sororities

Municipal Licensing and Standards administers and enforces two distinct licensing regimes: business licensing, under Toronto Municipal Code Chapter 545, Licensing, and rooming house licensing, under former City of Toronto Municipal Code Chapter 285, Rooming Houses.

Under Chapter 545, with some noted exceptions, the City may license any business. Although business is not defined in the underlying legislation or in the by-law, a business is generally accepted to be an industrial, commercial, or professional operation that provides goods and services for sale, and which has a profit for its residual owners as a primary motive. The City licenses approximately 52,000 such businesses. The purpose of licensing is to regulate where there is a valid municipal purpose for doing so. In general terms, a valid municipal purpose includes health and safety, consumer protection and nuisance control.

In the opinion of staff, Fraternities and Sororities clearly do not fall under the definition of business and as such cannot be licensed under business licensing.

Under former City of Toronto Municipal Code Chapter 285, Rooming Houses, the City may, in the former City of Toronto, license rooming houses.

Under the existing zoning by-law of the former City of Toronto, a rooming house is defined as:

A building that:

1. Contains dwelling rooms designed or intended for use as living accommodation by more than three persons; and

2. May also contain one or more dwelling units, but does not include a converted dwelling and rooming house or other establishment otherwise classified or defined in this by-law.

Where permitted in the former City of Toronto, a rooming house is required to have been originally constructed as a detached or semi-detached house that: meets the minimum size of rooms requirement; has a minimum number of washrooms; exhibits no substantial change to the exterior appearance of the dwelling; satisfies the requirement that if in a former semi-detached house, both halves of the building must be a rooming house; has a maximum number of dwelling rooms depending on the zone category and location; and meets the parking standard of 1 space for each 3 rooms, in excess of 3 rooms. In the mixed use and reinvestment zones, the rooming house regulation has no qualifications based on type of building and size of rooms, provided the maximum number of rooms does not exceed 25.

Fraternalities and Sororities are not defined in the zoning by-law of the former City of Toronto. However, the term is specifically mentioned as a permitted residential use (i.e., shared housing containing dwelling rooms) that is classified separately from that of rooming houses (also considered shared housing containing dwelling rooms).

Chapter 285 requires that rooming houses be licensed. A rooming house is defined by Chapter 285 as “A building that contains dwelling rooms and may also contain one (1) or more dwelling units, where:

1. The dwelling rooms, in total are used or designed or intended for use as living accommodation by more than three (3) persons; and
2. The living accommodation is provided in exchange for remuneration.”

Chapter 285 goes on to provide a number of exceptions including a specific exception for “A student fraternity or sorority house that is a dwelling:

1. Containing more than three (3) dwelling rooms; and
2. In which accommodation is provided for more than three (3) students who are members of a bona fide nationally or internationally chartered student fraternity or sorority.”

Thus, under the rooming house by-law for the former City of Toronto Fraternity and Sorority houses cannot be licensed. It is important to note that student co-operative housing is also exempted from licensing.

At the staff-held consultations, it was pointed out by a number of residents that the Fraternity and Sorority houses were not the only sources of noise and other nuisances. Local student co-operatives were also singled out as being problematic. For this reason, staff believe that any regulatory solution aimed at Fraternity and Sorority houses would have to be aimed at co-operatives and other similar housing arrangements as well. This extends well beyond the scope of the specific request from the Committee. Staff note, however, that the Licensing and Standards Committee, in a separate motion, has also asked staff to come back with recommendations to deal with the broader question of

nuisance control relating to student housing. The question of licensing in this context shall be revisited at that time.

There are two key issues respecting licensing that should be highlighted. The first is that the City does not have the authority to license people or organisations purely on the basis of their affiliation. The City, with a valid municipal purpose, may license people or organisations conducting specific activities, such as providing rental housing. This activity, of course, is provided by a much broader range of groups than Fraternities and Sororities.

The second point relates to the nature of the regulatory power of licensing. If the City were to license landlords, it could only hold landlords responsible for their actions as they pertain to the requirements of the bylaw. Licensing could not regulate the behaviour of those living in the licensed accommodations. Except in very limited circumstances, in which the actions of the landlords could be shown to have explicitly permitted or abetted behaviours that resulted in specific violations, the City would not be able to hold the landlords accountable for the actions of their lodgers.

The Withholding of Film Permits and Other Punitive Measures

Staff neither believe that the City has the authority nor that it is appropriate to tie the issuance of film permits to noise, waste, or other property standards violations. City Council has already agreed to withdraw the ongoing City-imposed moratorium on film permits for Fraternities and Sororities.

As already indicated, it is problematic to hold the owners of the Fraternity and Sorority houses responsible for issues arising from the actions of the occupants of the houses, and vice-versa. It is also problematic to impose punitive measures unrelated to the offences, where there are already regulations in place that specify a process of enforcement and penalties for non-compliance.

Staff believe that it is a better option to move forward with some of the positive initiatives that have been generated by members and representatives of the Fraternities and Sororities and the area residents. These initiatives continue to evolve and hold the promise of a grass-roots solution to the issues in the community.

Establishment of Joint Working Group

At the request of representatives from the Fraternities and Sororities, a meeting between them and the local residents, as well as the Ward Councillor, took place on April 20, 2011. This meeting formed the foundation for a series of subsequent meetings that evolved into a joint working group.

The aim of the Working Group is to establish a framework for dealing with the root of neighbourhood nuisance issues. Already both groups have agreed that there is a need for greater and facilitated communication when issues do arise. As a result, they have agreed to establish a web site that will contain the contact information of key contacts for both sides, including a 24-hour contact person for each Fraternity and Sorority house.

A key challenge has been to ensure there is an appropriate accountability mechanism in place, if there is a breakdown in the protocol. The Working Group has tentatively agreed that when issues arise there will be a complaint escalation system by which issues will first go to the designated contact person or persons for the specific Fraternity or Sorority.

If the issues are not resolved in a satisfactory manner at the initial level, the complaint may be bumped up to the Greek Council. This is a body that acts as a regulatory council and can influence individual chapters under the threat of “shunning”. The shunning of a chapter means that it is excluded from Greek events. Others are also forbidden from participating in the shunned chapter’s events.

If the matter cannot be resolved satisfactorily by the Greek Council, it may be bumped up further to the international bodies that charter the chapters. In extreme cases, chapters could lose their charter.

Both sides continue to be committed to finding a mutually beneficial solution. Staff believe that the City should support this effort, as any grass-roots initiative and eventual solution is more likely to be both effective and efficient.

Outreach and Information Sessions

In conjunction with Fire Services and the Police, ML&S, in consultation with representatives of the Fraternities and Sororities and the area residents, could provide outreach and information sessions at specified times during the year. These sessions would outline the rights and obligations of all community members, as well as provide an overview of the relevant by-laws.

As a new batch of students and pledges move into the neighbourhood, the City could work with the Residents Association to develop sessions that include information on which by-law issues routinely cause problems between student residents and full time residents, and how the City can be of assistance to student residents with regards to maintenance issues. These could take place every September and be conducted in a number of formats.

It is worth noting that in other municipalities tertiary institutions are taking an active role in the roll-out of such programs. For example, the University of Western Ontario in London, Ontario has instituted the L.E.A.R.N (Liquor Enforcement and Reduction of Noise) program, which pairs up the police and by-law enforcement to do outreach at the start of the school year, with a visit being paid to every on-campus student residence, Fraternity or Sorority house, student co-operative or other known form of student housing. The officers introduce themselves, and leave literature on relevant by-laws, how to make a complaint, and what constitutes a good neighbour. They also relate past incidents that have caused problems. Although not essential, the effectiveness of such an initiative in Toronto would likely be enhanced if the relevant universities and colleges took an active role and promoted the program.

More Focused and Better Co-ordinated Enforcement

During the public consultations, both the neighbourhood's full time residents and the residents and representatives of the Fraternity and Sorority houses expressed their desire to have the existing City by-laws fully enforced. It was also determined that many of the activities tied to the nuisances tend to be more pronounced at certain times of the year. When classes begin in September, during the culmination of the rushing season, and at the end of final exams in late April are all times of significant activity that may create nuisance issues.

Thus, in conjunction with the Toronto Police Service, ML&S could arrange for pro-active work in the neighbourhood. Enforcement blitzes could be conducted during times of peak activity in the area.

A standard operating procedure could also be established to provide a guide to enforcement staff conducting investigations with regards to ongoing noise issues at rental properties which are not owner occupied. This could allow the City to deal with noise problems much more effectively and, at the same time, free up Police resources.

Ongoing or chronic concerns could be referred to the Toronto Multi-jurisdictional Enforcement Team (TMET). This team includes a number of City divisions as well as the Police and agencies from both the provincial and federal governments. TMET could bring to bear the enforcement expertise of all of its members to bring about an effective resolution to more complex issues. This approach will be discussed in more detail in the staff report concerning neighbourhood issues with student housing.

CONTACTS

Warwick R. Perrin
Policy & Research Consultant
Municipal Licensing and Standards
Toronto City Hall, West Tower, 16th Floor
100 Queen Street West
Toronto, Ontario M5H 2N2
Tel.: 416-392-8096 Fax: 416-397-5463
E-mail: wperrin@toronto.ca

Rudi Czekalla
Manager, Policy and Planning Services
Municipal Licensing and Standards
Toronto City Hall, West Tower, 16th Floor
100 Queen Street West
Toronto, Ontario M5H 2N2
Tel.: 416-392-9352 Fax: 416-397-5463
E-mail: rczekal@toronto.ca

SIGNATURE

Jim Hart
Executive Director
Municipal Licensing and Standards