



## STAFF REPORT ACTION REQUIRED

### Supplementary Report: Request for a Fence exemption to the Toronto Municipal Code, Chapter 447-Fences at 466 Donlands Avenue

<b>Date:</b>	February 8, 2012
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Municipal Licensing and Standards Division, Toronto and East York District
<b>Ward:</b>	Ward 29 – Toronto Danforth
<b>Reference Number:</b>	IBMS Folder No.11-199109

#### SUMMARY

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The purpose of this report is to respond to the request from Toronto and East York Community Council at its meeting of November 2, 2012 for Municipal Licensing & Standards Division to consult with Toronto Building Division and Toronto Fire Services on a rear deck covering at the property municipally known as 466 Donlands Avenue, Toronto.

#### RECOMMENDATIONS

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Municipal Licensing and Standards Division recommends that the Toronto and East York Community Council receive for information the reports dated October 14, 2011 and February 8, 2012, from the Manager, Investigation Services, Municipal Licensing and Standards, respecting the property municipally known as 466 Donlands Avenue.

#### Financial Impact

There is no financial impact in receiving this report.

#### DECISION HISTORY

The City of Toronto Municipal Code, Chapter 447-Fences, Section 447-1 Definitions, defines a Fence as:

"A barrier, including one for noise attenuation, or any structure, except a structural part of a building, that wholly or partially screens from view, encloses or divides a yard or other land, or marks or substantially marks the boundary between adjoining land, and includes any hedge or shrub that has the same effect."

[Amended 2000-10-05 by By-law No. 869-2000; 2004-06-24 by By-law No. 557-2004; 2008-07-17 by By-law No. 793-2008].

This rear deck covering, in its current state, incorporating 3 sides made up of various materials, including over head wooden framing, is not in keeping with the definition of a fence pursuant to Toronto Municipal Code Chapter 447, as applied.

Further to the request of Toronto and East York Community Council of November 2, 2011 (ref: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.TE11.28>), staff from Municipal Licensing & Standards Division consulted with Toronto Building Division and Toronto Fire Services.

In consultation with Toronto Building Division, Toronto Building's determined this rear deck covering in its current state is not a structure that requires a building permit. The deck was existing, the elements of the current rear deck covering are not attached to the main building and do not incorporate a fixed roof covering. There are no elements that require Building Code review.

In consultation with Toronto Fire Services, Municipal Licensing staff were advised that in keeping with the interpretation of the Toronto Building's Division, there are no concerns pursuant to the Ontario Fire Code or any other regulations within their jurisdiction.

## **ISSUE BACKGROUND**

The Municipal Licensing and Standards Division became involved in this matter in May 2011, stemming from a public complaint. Investigation conducted at the time, identified this rear deck covering as a "fence" erected of an existing deck, subsequently applying the provisions as prescribed by the Toronto Municipal Code Chapter 447 – Fences; and led to the issuing of a Notice of Violation indentifying a deficiency to the 3 sides of the rear deck covering being in excess of the permitted height as prescribed by the Chapter; namely greater than 2.0 meters. Municipal Licensing & Standards Division received an application for exemption from the Fence By-law, in response to the Notice of Violation issued and initiated the exemption process. The stated purpose for erecting the current rear deck covering was for privacy.

## **COMMENTS**

The purpose of this report is for Toronto and East York Community Council to receive the information contained within. Given the above, the Municipal Licensing & Standards

Division has determined in further consultation with Toronto Building Division and Toronto Fire Services that the rear deck covering located at the property municipally known as 466 Donlands Avenue, Toronto, does not meet the definition of a structure requiring the issuance of a building permit, is not a fence and subsequently not subject to the provisions of the Toronto Municipal Code Chapter 447, as defined.

## **CONTACT**

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## **SIGNATURE**

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