



Confederation of Resident & Ratepayer
Associations in Toronto

May 27, 2014

Chair Peter Milczyn and Members of
Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West
Toronto, ON M5V 2N2

Atten: Ms. Nancy Martins
PGMC Secretariat Support

Email: pgmc@toronto.ca
Fax: 416.392.1879

Dear Chair Milczyn and Members of Planning and Growth Management Committee

PG33.2: (10:00 AM) Amendments for all Zoning By-laws Group Homes
Planning and Growth Management Committee Meeting No. 33 – May 29, 2014

CORRA supports the need for Group Homes. However, CORRA (the Confederation of Resident and Ratepayer Associations in Toronto) continues to object the proposed changes.

CORRA's concerns are with the amended definition which we believe will exacerbate the present situation of quasi operations purporting to be group homes when they are not. So long as the words "*or funded*" remains in the definition the by-law will remain deeply flawed.

DELETE "*or funded*" FROM THE PROPOSED DEFINITION:

The amended and proposed definition states

"Group Home means premises used to provide supervised living accommodation, licensed or funded under Province of Ontario or Government of Canada legislation for up to ten persons, exclusive of staff, living together in a single housekeeping unit because they require a supervised group living arrangement."

The concerns are:

1. Any lawyer will point to the disconnect between the definition of Group Home in the City of Toronto Act and the Provincial law and argue that for the purposes of the City of Toronto that there is no requirement for licensing since a group home is something different. Because the proposed definition provides an option of being "licensed or funded" the quasi operations purporting to be "group homes" will and can proliferate under the "funded" option in the definition.

2. The proposed amendment to the by-law removes *“and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being”* based on staff's assumption that this wording is not needed because all group homes will be licensed by the Province is in error.

Therefore if the City intends to rely on the Provincial licensing rules, and thereby exclude quasi group homes, it must also delete the words “or funded” in the proposed definition.

There is no intellectual reason to not do so. This would make the wording consistent with the statements in the report. Why keep that wording when you have amended key parts of the definition.

While CORRA has concerns with relying on Provincial regulation to fill in gaps, especially as the recent events concerning conditions on licensed establishments being dropped by the regulatory body has shown. It would provide some comfort that only licensed group homes would be able to operate in Toronto, and would affect our decision to appeal the proposed changes.

CORRA continues to remain concerned in light of the failure to remove “as funded” in regard to the matters we previously raised.

CORRA was represented at the open house and indicated if the “as funded” was deleted that it would go some way to address our concerns, it would be inaccurate to state that in the absence of such an amendment that our concerns concerning distance would not remain along with the amendment to the definition.

In summary, as long as the words “as funded” remain in the proposed definition:

1. CORRA does not support the proposed amended definition of Group Home as presented; and
2. CORRA does not support the removal of the separation distance of 250 metres.

CORRA at this time supports or does not object to:

- Retaining the maximum number of 10, excluding staff; and
- Removing the lower number of 3.

We attach our earlier letter that touches on these points in greater detail.

CORRA overall recommendation is:

To delete “or funded” in the proposed definition or alternatively re-introduce the original definition and keep the distancing provisions.

Yours truly

William H. Roberts

William H. Roberts, LLB
Chair, CORRA, Confederation of Resident and Ratepayer Associations in Toronto
Encls. Letter dated April 7, 2014



Confederation of Resident & Ratepayer
Associations in Toronto

April 7, 2014

Chair Peter Milczyn and Members of
Planning and Growth Management Committee
Toronto City Hall
100 Queen Street West
Toronto, ON M5V 2N2

Atten: Ms. Nancy Martins
PGMC Secretariat Support

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Dear Chair Peter Milczyn and Members of Planning and Growth Management Committee

PG32.1: (10:00 AM) Group Home Amendments to all Zoning By-laws
Planning and Growth Management Committee Meeting No. 32 – April 10TH, 2014

In March 2014 at CORRA's general meeting, CORRA Council voted to object to the present proposed amendments to the zoning by-laws for group homes under the recently enacted city-wide ZBL569-2013 (with outstanding appeals) and all predecessor in force zoning by-laws.

Executive Summary:

CORRA supports group homes, but firstly the definition should clearly identify what a group home is and be compliant with the City of Toronto Act and the provincial legislation. The Group Home as currently defined represents affirmative action and permits an institutional use into residential areas that otherwise would not be permitted.

And secondly, that the City should not adopt a "0" distance separation between group homes as such homes side by side or collectively may be deemed to be introducing a different use with different collective impacts.

CORRA Council supports and recommends the following:

1. That the definition under ZBL569-2013 be restored with the words:

"and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being".

2. That the minimum number of persons be removed but the maximum number of 10 (excluding staff) be retained.
3. That the separation distance be an appropriate reasonable distance but should not be "0".

Background and Rationale:

The corporate history, background and research provided below is in summary form as presented by CORRA Chair, William Roberts, LLB.

1. Group Home Definition

- a) City of Toronto Act Definition: Section 3 (1) of the City of Toronto Act (2006) includes the following definition:

“Group Home means a residence licensed or funded under a federal or provincial statute for the accommodation of three to 10 persons, exclusive of staff, living under supervision in a single housekeeping unit and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being.”

Section 96 allows the City to license group homes.

Given the zoning definition is noncompliant, it follows it could not license the purported group homes. Further given the difference in wording it will be open for an applicant to argue that group homes under the zoning by-law have a broader permission which can include much larger range of use than the historical group homes we are familiar with.

If the Ontario Human Rights Commission and housing advocates feel the definition is wrong then seeking to amend the provincial legislation may be more appropriate rather than seeking to override the law by way of the City's zoning by-laws.

- b) The Wording has Meaning and Serves a Purpose: The words, “and who, by reason of the emotional, mental, social or physical condition or legal status, require a group living arrangement for their well-being”, are not superfluous and serves an important purpose to distinguish group homes from other possible uses such as student residences, psychiatric boarding and lodging houses, housing for religious orders and similar group living arrangements.

The wording setting out why the residents need to be in a group home is necessary to ensure that you do not create a loophole and create confusion with other uses such as boarding houses. Noted past examples involved “illegal bachelorette” accommodations and subsequent illegal conversions of the boarding and lodging house provisions through its misuse.

Given the changes in definitions of various multiple dwelling unit buildings under ZBL569-2013, the affirmative permission of a group home should not be diluted in such a way that would give rise to uses unintended or repeated as already experienced in other parts of the City in the past. Law making should be clear and unambiguous and serve to aid the intent and purpose as well as to determine consistent application and enforcement.

- c) The Assumption that the Definition is Not Needed because of Licensing Provisions is in Error: Had the definition been limited to homes licensed by a higher government

Professor Agrawal's argument might carry weight; however, the definition allows premises which are funded by a higher level government.

If a non-profit group receives funding for its objects such as student accommodation and provides a person who acts "in loco parentis" would this meet the proposed definition? What about a religious educational body?

The proposed words being removed clarifies that such groups would not qualify as a group home. In fact, the wording: "and who, by reason of their emotional, mental, social or physical condition or legal status, require a group living arrangement for their well being" should be reintroduced into ZBL569-2013.

- d) Group Homes have been found by the OMB to be Institutional Uses: Professor Agrawal acknowledges that group homes have been found by the OMB to be institutional uses (see the OMB decision in, *Haydon Youth Services v. Keaney (Town)* 1997 O.M.B.R. 124. Agrawal then moves on to find he sees no planning rational to support this position.

On this point CORRA fundamentally disagrees. Nothing in the by-law prohibits people who have various disadvantages from living anywhere in a residential zone.

The Group Home is affirmative action and permits an institutional use into residential areas that otherwise would not be permitted.

2. The Minimum and Maximum Number of Persons

While there are reasons to support a minimum number of persons in a group home, CORRA does not object to removing the minimum and agree that the maximum number of persons, excluding staff, be maintained at 10 persons.

3. Separation Distances

Professor Agrawal, while not accepting the concept, noted that separation distances were introduced to ensure that residential care facilities would be equitably distributed throughout all residential areas and no further concentration of residential care services in areas where the numbers of facilities were excessive.

While Professor Agrawal felt this was appropriate to retain distances for residential care facilities, he did not view this as necessary for group homes because of the maximum number of ten persons. This fails to take into consideration that if you have two group homes side by side or relatively close proximity to each other than you have more than 10 persons which except for the physical separation would have the same impact as a residential care facility.

At page 23 of his report, he presumes the definition and separation distances were adopted to deal with strong public opposition. CORRA queries the assumption since only one ratepayer group objected to the by-law on the issue of separation distances and withdrew once it realized there were no other objectors.

The one group that objected was the Swansea Area Ratepayers Association based on the problems with such institutional uses and boarding and lodging houses in South Parkdale. The problems with the over concentration in South Parkdale was informing the City in its decision making.

Again this was South Parkdale area that also had to deal with "psychiatric boarding and lodging houses", hospitals, respite care, etc.

While Professor Agrawal assumes the objections were not grounded in reality, they were grounded in what was occurring in South Parkdale.

4. Failure of Notification Process

While the City gave notice of the formal public statutory meeting scheduled on January 13, 2014 which has subsequently been deferred, it failed to notify CORRA as one of the appellants when the matter first went to PGMC meeting to receive the report and set the public hearing date. In previous administrations, the report seeking to amend the by-law would have been provided to objectors at the first meeting.

In addition, CORRA also did not receive notice of the deferred public statutory meeting and announcement of Open Houses scheduled to begin April 7 through to April 15, 2013 during which the public statutory meeting is scheduled to continue on April 10, 2014 at 10:00 am. CORRA has written separately to address this failure of due process.

Yours truly,

WHR

William H. Roberts, LLB
CORRA Chair
Confederation of Resident and Ratepayer Associations in Toronto