

Stairwell Railings and Guardrails

Date: November 16, 2016

To: Licensing and Standards Committee

From: Executive Director, Municipal Licensing and Standards

Wards: All

SUMMARY

This report describes the enforcement approaches taken by Municipal Licensing and Standards (ML&S) to respond to non-conforming stairwell railings, wall-mounted handrails and guardrails identified during Multi-residential Apartment Building (MRAB) audits. ML&S issues orders under Chapter 629, Property Standards against building owners whose stairwell handrails and guardrails are poorly maintained, in disrepair or are unsafe for continued use. In cases where the stairwell handrails and guardrails are in good repair, but non-conforming to the most current requirements in the Ontario Building Code, building owners receive a notice advising of the non-compliance.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. Licensing and Standards Committee receive this report for information.

FINANCIAL IMPACT

There are no financial implications expected from this report beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting of October 25, 2016, Licensing and Standards Committee directed the Executive Director, Municipal Licensing and Standards to report back to the November 30, 2016 meeting on the enforcement process for violations in contravention of Chapter 629-19 (stairway railing safety) as part of the ongoing Multi-residential Apartment Building (MRAB) audits.

COMMENTS

When a building is constructed, it must be built in accordance with the Building Code in force at that point in time. When the Province of Ontario updates the Building Code standards, the general practice is not to require properties built under the old standards to be retrofitted to come into compliance with the new standard, including stairwell handrails and guardrails. The only time a stairwell handrail or guardrail is required to be updated to the current Building Code standards is when the property owner makes modifications that would require the issuance of a building permit. Consequently, as a matter of policy, the Province of Ontario has determined that the nature of the new standards is not significant enough to require that all buildings be retrofitted to meet those standards.

However, since Chapter 629 duplicates the standards found in the current Building Code as they relate to stairwell handrails and guardrails, it imposes a higher standard than the Province requires with respect to these matters. Therefore, ML&S determined that in instances where a non-conformity with Chapter 629 has occurred only because of minor and technical updates to the Building Code, that it would be appropriate to begin enforcement and seek compliance through a different approach.

ML&S uses a continuum of enforcement tools in order to achieve compliance with Chapter 629, Property Standards. ML&S may provide verbal and written warnings, issue letters or orders and when necessary, undertake remedial action. In determining what approach to take, ML&S evaluates, on a case-by-case basis, the nature of the non-conformity and whether safety issues are present. In all instances, obtaining voluntary compliance is ideal.

When ML&S investigates matters related to stairwell handrails and guardrails, it has identified two types of non-conforming stairwell handrails and guardrails that require a distinct enforcement approach – including the tools noted above.

1) In cases where the stairwell handrails and guardrails are poorly maintained, in disrepair or unsafe for continued use, building owners are issued a property standards order. If they fail to comply, ML&S will escalate enforcement through prosecution or remedial action.

2) In cases where non-conforming stairwell handrails and guardrails are well maintained, in good repair, in compliance with the applicable Building Code standards at the time they were installed, and pose no obvious or apparent threat to safety, the building owner receives a notice that advises them of non-compliance. This non-conformity with the property standards by-law is caused by incremental updates made to the Building Code over time and duplicated in the standards set out in Chapter 629.

ML&S has determined that this approach is appropriate for a number of reasons. These minor non-conformity issues require building owners to undertake a significant amount of work that cannot be completed quickly or inexpensively. Appeals were frequently made to the Property Standards Committee for the sole purpose of requesting a significant extension to the time for compliance with issued orders. By issuing a notice

informing a property owner of this technical and minor non-conformity, the property owner can develop acceptable timelines and make necessary budgetary accommodations to have the required work completed to bring the handrail or guardrail into compliance.

It is important to note that this enforcement approach does not prevent ML&S from issuing an order at a later point in time, especially where a property owner does not take action to achieve compliance or where the condition of the stairwell handrails and guardrails deteriorates or changes in any way. The property owner is given 8 months to demonstrate compliance with the notice.

Table 1: Enforcement actions related to stairwell railings, wall-mounted handrails and guardrails, 2015-2016

Year	Notices	Compliance with Notices	Notices that resulted in Orders	Orders Issued	Orders Closed	Charges	Properties
2015	59	29 (5 are in progress)	25	43	29	9	71
2016	46	12	8	29	11	0	59

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SIGNATURE

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