

LS9.1.4

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Delivered via email

January 19, 2016

Councillor Cesar Pallacio
Chair - Licensing and Standards Committee
10th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Dear Mr. Chair and Committee Members,

RE: Comments concerning LS 9.1, Amendments to Chapter 591, noise

The apartment where I live in Downtown Toronto sits in the midst of several large construction projects. Over the last four years I have experienced an increase in noise during prohibited times. As a municipal lawyer who has also prosecuted noise violations, I am well placed to provide some comments on proposed amendments to Chapter 591 of Toronto's Municipal Code. I make these comments on my own behalf.

1. Applicants for exemption should be required to notify nearby households and businesses of their application in addition to the relevant ward councillor.

Notice of all applications should be provided to residents within 120 metres of the location where the event or activity is proposed. Such notice should provide a clear description of the proposed activity, the proposed duration of the activity and, in the case of construction related exemptions, the reason why the activity cannot be completed during hours when construction sound is permitted.

The recommended process places a burden on the Councillor's office to communicate with nearby residents about an application, solicit input and then respond within 14 days. It is not realistic to expect every councillor's office to be equipped to do this. The applicant should bear the cost and burden of informing its neighbours who may then communicate any concerns, if any, to the applicant and/or their councillor's office.

While the amendment removes standing exemptions, it opens the door to a broad array of other exemptions for indeterminate periods. Exemptions from these regulations have a direct impact on people's quality of life and the quiet enjoyment of their homes. Therefore, exemptions, especially as they concern construction activities, should be treated as exceptional permissions requiring the applicant to explain why the exemption is required.

Notice should be transmitted by letter and e-blast. Online notification via searchable database is insufficient, as it would require constant checking for new applications. While notice of applications may be concurrently posted in a conspicuous place, posting

alone is insufficient at construction sites with extensive hoarding and numerous entrances.

2. Additional information is required to deter offences.

In addition to the contact information for a “contact person” as required under the recommended provision §591-8 C. (3)(e) the applicant should be required to provide the identity of the subject property owner authorizing the work and, in cases that concern large projects, the construction management company overseeing the work. All this information should be posted conspicuously at the site during the exempt activity.

Liability for an offence appropriately includes those who cause and those who permit prohibited sound. Large construction management companies very often blame “sub-contractors” for noise. This practice is unacceptable. It is appropriate for property owners to be accountable for activities undertaken on or in the service of their property.

3. Allow citizens to undertake their own sound measurements.

The Committee should change the definition of “approved sound meter” by removing “...and has been approved for use by the Executive Director”.

This definition precludes citizens from retaining their own sound engineers and technicians for the purpose of prosecutions under the code. There should be no difference between a calibrated sound meter that meets ANSI or IEC standards and one specifically approved by the Executive Director.

I support the balance of the recommended changes. In particular, the more rigorous approach to fines should achieve the deterrent effect required of these sorts of regulations.

I commend the Committee and Councillor Wong-Tam for their initiating this review of Chapter 591 of the Toronto Municipal Code. Ms. Jessica Walters was very responsive to stakeholder comments and demonstrated an excellent grasp of the issues at stake.

Please do not hesitate to contact me should you have any questions or concerns.

Ian Flett

C: Councillor De Baermaecker
Councillor Di Giorgio
Councillor Karygianis
Councillor Mammoliti
Councillor Matlow
Councillor Wong-Tam
Ms. Jessica Walters, Municipal Licensing and Standards