



STAFF REPORT ACTION REQUIRED

Strategy for Minimizing the Negative Impacts of Residential Infill Construction Activity

Date:	February 9, 2016
To:	Planning and Growth Management Committee
From:	Chief Building Official and Executive Director, Toronto Building Executive Director, Municipal Licensing and Standards
Wards:	ALL
Reference Number:	P:\2016\Cluster B\BLD\Chief Building Official Head Office\PG16001

SUMMARY

The purpose of this report is to provide the Planning and Growth Management Committee with a proposed strategy to minimize the impact of residential infill construction activity on Toronto neighbourhoods. The report presents the result of work undertaken to date by Toronto Building, in consultation with various divisions and stakeholders, to develop an effective, co-ordinated City response to problematic residential construction sites in existing neighbourhoods.

When regulations and by-laws are not followed during construction, the process for the public and the City to respond and achieve compliance can be slow and cumbersome. The proposed strategy builds on existing successful processes and introduces actions aimed at developing a responsive and effective enforcement system, supported by proactive measures to prevent problems from occurring.

Should City Council accept these recommendations, Toronto Building will lead the proposed strategy by co-ordinating interdivisional actions in three areas:

- Improve the City's complaint management strategy to manage and respond to complaints more quickly and effectively;
- Improve communication with residents to provide clear, understandable information, so that they can have issues resolved in a more timely manner; and
- Encourage good construction practices in the building industry through education, more effective enforcement, increased use of tickets, an additional mandatory inspection and increased building inspector knowledge.

The Executive Director, Municipal Licensing and Standards; General Manager, Parks, Forestry and Recreation; General Manager, Transportation Services; Fire Chief and General Manager, Toronto Fire Services; Executive Director, Engineering and Construction Services; Director, 311 Toronto; Director, Energy & Environment Division; and the City Solicitor were consulted in the preparation of this report.

RECOMMENDATIONS

The Chief Building Official and Executive Director, Toronto Building recommends that:

1. City Council adopt the strategy set out in this report and summarized in Appendix 1, to minimize the impact of residential infill construction activity on Toronto neighbourhoods.
2. City Council direct the Chief Building Official and Executive Director, Toronto Building, in cooperation with relevant divisions, to implement the strategy set out in Appendix 1.
3. City Council direct the Chief Building Official and Executive Director, Toronto Building, in consultation with relevant divisions, to report to the Planning and Growth Management Committee by the fourth quarter of 2017 with:
 - a. The status of actions undertaken to implement the proposed residential infill strategy and any further actions necessary to support the continued development of the strategy;
 - b. An analysis of experience with the coordinated strategy based on improved information on cross-divisional complaints associated with residential infill construction sites; and
 - c. An evaluation of Toronto Building's program of issuing tickets and in consultation with relevant divisions, recommendations for broadening the use of this program to other City divisions.

The Executive Director, Municipal Licensing and Standards recommends that:

4. City Council request that the Executive Director, Municipal Licensing and Standards, in consultation with the Chief Building Official and Executive Director, Toronto Building, and the Director, the Energy and Environment Office and Toronto Public Health, report to the Licensing and Standards Committee in the first quarter of 2017 with recommendations on dust control measures related to residential infill construction.

Financial Impact

The 2016 Recommended Operating Budget for Toronto Building includes funding of \$0.450 million gross and \$0 net, to implement a coordination unit of up to seven new staff to enforce the strategy and standards for infill construction across the city, as directed by City Council and recommended in this report.

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

DECISION HISTORY

In June 2015, the Planning and Growth Management Committee considered the (June 3, 2015) report from the Chief Building Official containing a workplan to develop a strategy to deal with problem residential infill construction sites.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG5.5>

At its meeting of June 19, 2014, the Planning and Growth Management Committee referred the item “Residential Infill Construction Sites – Improving our Response” to staff for a report back.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG34.23>

At its meeting of May 20, 2014, the Parks and Environment Committee referred the item (PE27.5) “Taking Action on Dust Suppression” to staff for a report back.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PE27.5>

In considering the response to PE27.5, staff from the Environment & Energy Division met with staff from Toronto Building, Municipal Licensing and Standards and Public Health. Staff agreed that a City response to dust control from construction would be most appropriately addressed through this coordinated strategy to address infill construction issues.

ISSUE BACKGROUND

Understanding the Problem

The process of demolishing a house in existing neighbourhoods and constructing a new building creates distinct challenges for both builders and the neighbourhood. Builders work in a dense built environment, while neighbours face multiple issues when builders do not comply with regulations and by-laws. These issues can involve multiple regulations administered by different divisions. As a result, it can be challenging for staff to provide a strategic and effective response to issues. Where these issues are ongoing, the situation can be more problematic for all stakeholders.

With increased construction activity in established neighbourhoods, there is potentially more impact. Residential infill construction activity in the City of Toronto has more than doubled between 2010 and 2015, with approximately 50 percent of the projects occurring in the North York District. Wards 16, 23 and 25 comprised 33 percent of the total residential infill construction activity in Toronto during that period.

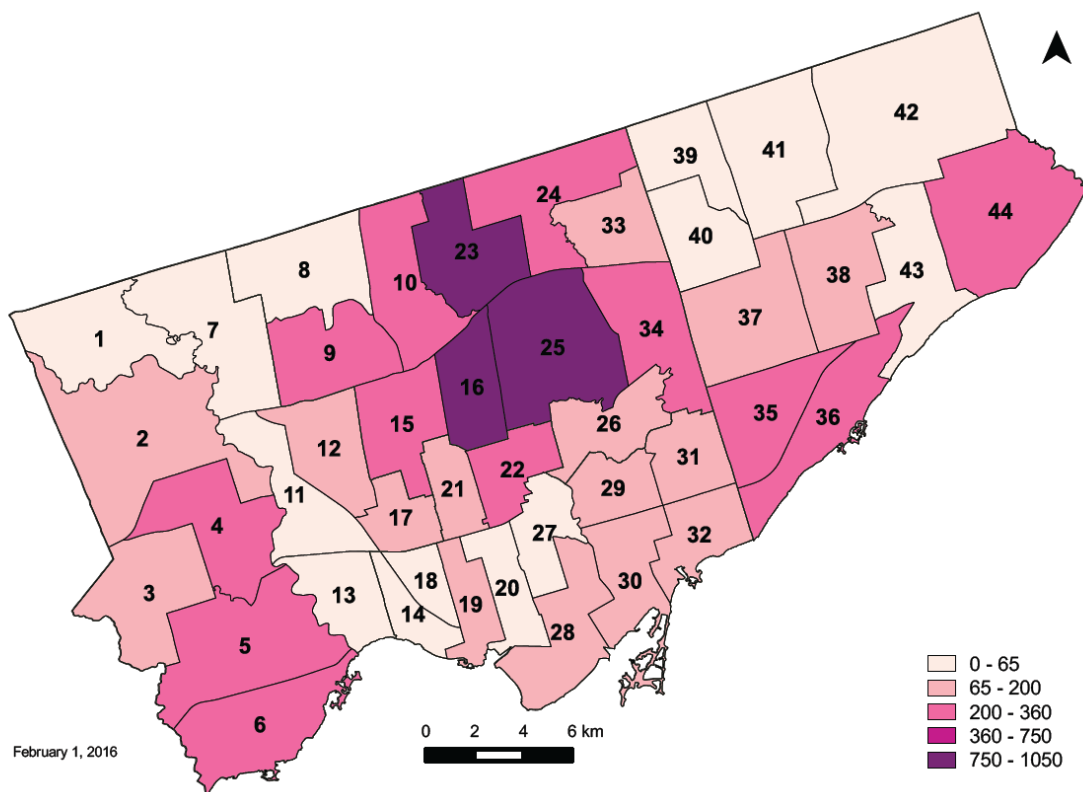


Figure 1: Number of Residential Infill Projects in Toronto (building permits issued), 2010-2015

	2010	2011	2012	2013	2014	2015
Etobicoke	182	215	247	255	286	348
North York	426	434	838	731	838	892
Scarborough	56	111	268	332	183	245
Toronto and East York	121	173	259	202	225	213
Total	785	933	1612	1520	1532	1698

Figure 2: Number of Residential Infill Projects by District (building permits issued), 2010-2015

Toronto Building's information management system does not currently provide comprehensive data on the specific complaints related to residential infill construction sites. In addition, each division currently tracks and manages its own complaints. Improved data collection and management will be a key element of a strategy to improve the management of complaints.

Residents as Case Managers

The by-laws and regulations governing residential infill sites are administered by multiple divisions that respond separately, frequently without any interdivisional coordination. Because issues on these construction sites often involve multiple regulations and by-laws, it can be frustrating for residents when they do not always receive a timely, coordinated City response to a problem property. The resident generally has to contact each division and act as their own case manager to resolve what may be

complex, inter-related and ongoing issues. There is no current structure within the City to monitor and coordinate an inter-divisional response to residential infill construction-related issues.

Existing Enforcement Tools

Toronto Building is frequently the first point of contact for the public when a construction site issue arises. When a Toronto Building inspector addresses the issue on-site, (regardless of the relationship to the role of the building inspector) compliance is often achieved following a verbal warning.

Where subsequent enforcement is required for a nuisance-related issue, Toronto Building refers the matter to the appropriate division to handle the matter. Where follow-up enforcement by Toronto Building is required, inspectors rely largely on orders issued under the authority of the *Building Code Act, 1992*. Enforcement of orders, however, may be time consuming and sometimes relies on the court system to achieve compliance. For some issues, where the offence is continuing and more immediate enforcement is required, orders are not always the most effective tool.

Key Principles in Developing the Proposed Strategy

Toronto Building led the development of this proposed strategy, in consultation with key stakeholders and divisions that respond to issues on residential construction sites. The following principles were identified in the development of this strategy. All divisions must work together to respond effectively to construction issues. The strategy should not create additional layers of regulation or slow the process for builders who follow the rules; instead, the strategy should include preventive measures and processes to handle problems more efficiently. The City needs to provide clear, understandable and accessible information to the public on residential infill construction-related matters.

In developing the proposed strategy, Toronto Building established an inter-divisional working group comprised of Toronto Water, Toronto Fire Services, 311 Toronto, Engineering and Construction Services, Environment & Energy Division, Transportation and Legal Services. Toronto Building staff also consulted with BILD (Building and Land Development Institute of Toronto), the Federation of North Toronto Residents Association (FONTRA) and the South Eglinton Ratepayers' & Residents' Association (SERRA).

COMMENTS

Minimizing the Impact of Residential Construction Activity: Approach

The inter-divisional strategy led by Toronto Building to improve how the City prevents and responds to residential infill construction issues is focused on three strategic areas for action:

- Improve the City's complaint management strategy to manage and respond to complaints more quickly and effectively;
- Improve communication with residents to provide clear, understandable information, so that they can have issues resolved in a more timely manner; and
- Encourage good construction practices in the building industry through education, more effective enforcement, increased use of tickets, an additional mandatory inspection and increased building inspector knowledge.

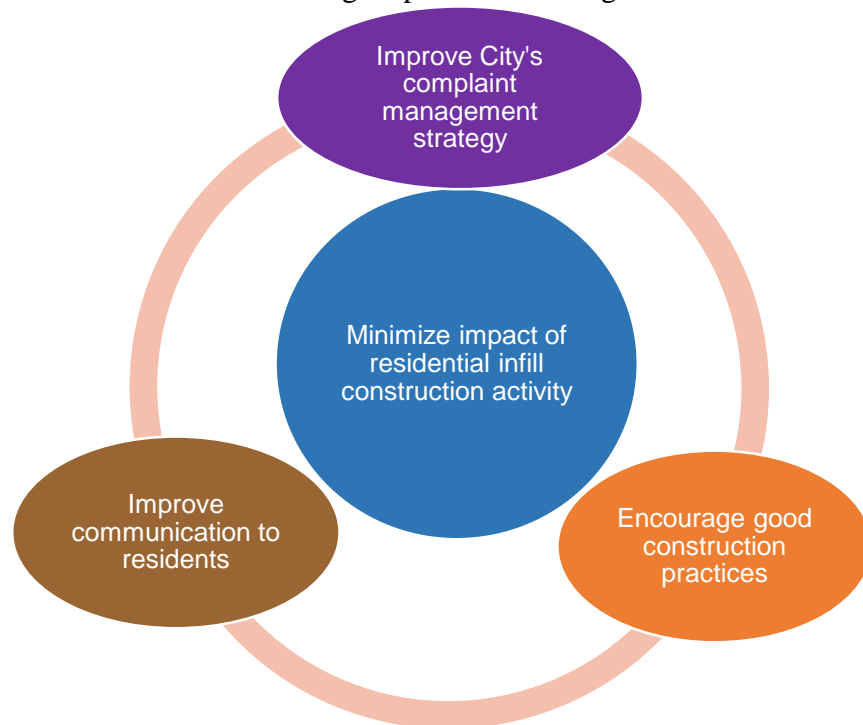


Figure 3: Framework for Minimizing Impact of Residential Infill Construction Activity

These three strategic areas for action are outlined below. The specific actions associated with each of the three strategic areas are listed in Appendix 1. As the lead division, Toronto Building will implement actions to improve communication with residents and encourage good construction practices. Improving the City's complaint management strategy will require inter-divisional cooperation.

Improving the City's Complaint Management Strategy

Dedicated Enforcement Unit

This report outlines the role for the new positions recommended in the Toronto Building 2016 Operating Budget, to improve the City's oversight and coordination of complaints with respect to residential infill construction, through expansion of the Division's new dedicated enforcement unit that was approved by City Council in 2015. The dedicated enforcement unit of five building inspectors was initially established to undertake proactive inspections of dormant permits.

This proposed strategy will add up to seven new staff, including building inspectors and program support, to conduct inspections and to perform tasks related to infill construction projects. The new staff will coordinate an inter-divisional response to problem construction sites. The assigned area inspector will remain the primary contact for the site, but will work closely with the new staff to address the estimated 300 problem sites that occur annually.

Inter-divisional Complaint Management

Based on feedback from the inter-divisional staff-working group, each division will continue to receive and respond to complaints. Each division will continue to respond to complaints within their program area. This strategy also proposes that Toronto Building provide oversight for infill construction sites in order to quickly identify problematic sites where issues are not being addressed in a timely or effective manner. Where the need for action is identified, Toronto Building would coordinate a City-wide, inter-divisional response. Currently, coordinated responses are performed on an ad-hoc basis. Centralizing information regarding problem sites will improve the City's ability to support legal action, when necessary.

A central component of the proposed complaint management framework is 311 Toronto. They have indicated that they are able to support the proposed framework by improving the way residential infill information is shared with Toronto Building and other divisions.

Encouraging Good Contractor Behaviour

Additional Building Inspection

The Building Code requires that permit holders call to request up to seven mandatory inspections (depending on the project scope) at specific construction milestones. Toronto Building is in the process of adding an inspection at the beginning of construction and, when necessary, towards the end of a project when construction should be nearing completion.

The additional inspections for small residential projects were added to address to improve compliance with the *Building Code Act, 1992* and encourage timely completion. This strategy proposes further expanding the inspections to include issues related to

construction practices. They will mitigate future enforcement action by educating permit holders on their obligations and responsibilities and the City's potential enforcement actions should they not meet their obligations. Inspectors will also convey expectations from other program areas in the City, potentially mitigating the need for enforcement action from other divisions. As part of the proposed strategy, Toronto Building staff will work with other City divisions to develop supporting materials to outline City expectations with respect to the construction of residential infill projects.

Increased Use of Tickets

As part of developing the proposed strategy, Toronto Building staff identified the need for a more effective tool to gain compliance. Currently, Toronto Building inspectors rely on the use of orders, issued under the authority of the *Building Code Act, 1992*. If a builder does not comply with an order, Toronto Building and Legal Services may commence legal action through the court system. Often, this process is slow and time consuming and may not ultimately result in the desired outcome of faster compliance.

The strategy proposes that Toronto Building pilot the use of tickets as an enforcement tool. Some other divisions currently use tickets issued by Provincial Offences Officers to enforce by-law infractions (e.g. parking) because they can be issued on the spot, with immediate impact. Toronto Building staff anticipate that through the issuance of tickets, builders would comply more quickly when violations are identified. In addition, the potential receipt of a ticket may act as a deterrent.

Staff will monitor and evaluate the effectiveness of the Toronto Building ticketing pilot and report the results to the Planning and Growth Management Committee in 2017. As part of the report back, Toronto Building will work with other City divisions to identify whether tickets should be used more broadly to address residential infill construction issues.

Verification of Compliance with Issued Permit

A key role of the building inspector is to verify that construction is consistent with the approved plans and drawings, including zoning. Quickly identifying and preventing the construction of houses that do not comply with the building permit is an additional component of the residential infill strategy.

Toronto Building is taking steps to strengthen the zoning-related knowledge of building inspectors through additional training, already planned for 2016. The Division is also amending its business practices to require that inspectors meet with zoning staff to review preliminary construction surveys to verify compliance with the permit. While increasing inspector's zoning knowledge, this review will also identify where enforcement action is necessary to prevent further construction that is not compliant with the approved permit.

Improving Communication with Residents

The final component of the coordinated strategy to minimize the impact of infill construction is focused on activities that will provide information that is more useful to the public in an accessible and understandable way.

Dedicated Residential Infill Website

Toronto Building will be working with other divisions to develop a dedicated residential infill website. The staff discussion with residents' groups reinforced the need for a single City online source for information related to residential infill construction.

Toronto Building is developing a tool that will improve public access to building permit status information. The Division will also explore how to link this information to the residential infill website. Facilitating access to City information will enable the public to be better informed about the various regulations and by-laws that apply to this type of construction.

Best Practices Guide

In consultation with both the building industry (BILD) and neighbourhood groups, a need was identified for better information on residential infill construction best practices. Toronto Building will facilitate the development of a best practices guide on residential infill construction with BILD and residents' associations. The guide, once developed, will be posted on the dedicated website.

Construction Site Sign

The Planning and Growth Management Committee previously identified that a sign posted on the infill construction site, containing key information, would be a useful public information tool. Toronto Building staff have discussed this request with both the building industry and residents' groups. Both groups commented that the information provided on the sign does not need to be exhaustive. Rather, it would be useful for the public to know how to contact City staff and know how to obtain additional information on the residential infill website. Toronto Building staff are in the process of developing a site signage program. Once developed and implemented for residential infill sites, Toronto Building will evaluate the program for expansion to other building types.

Dust Control

The issue of dust was often raised as a construction-related issue in residential areas that the City needs to address. This does not fall clearly under the authority of one division, or one level of government. To address the issue and Toronto Building, Municipal Licensing and Standards, the Energy & Environment Division and Public Health reviewed the need to establish standards for construction activities that generate dust.

In consultation with Legal Services, Municipal Licensing and Standards staff have determined that they are able to develop a by-law to regulate dust from construction

activities for Council's consideration. It is recommended that the Executive Director, Municipal Licensing and Standards, in consultation with the Chief Building Official and Executive Director, Toronto Building, and the Director, Energy and Environment Office, report to the Licensing and Standards Committee in the first quarter of 2017 with recommendations with respect to dust control measures as they relate to construction activities in residential areas.

CONTACTS

Will Johnston, P.Eng.
Director and Deputy Chief Building Official
Toronto Building
Phone: 416.395.7518
Email: wjohnst2@toronto.ca

Dylan Aster
Program Manager
Office of the Chief Building Official
Toronto Building
Phone: 416.338.5737
Email: daster@toronto.ca

SIGNATURE

John Heggie
Chief Building Official
and Executive Director (Acting)
Toronto Building

Tracey Cook
Executive Director
Municipal Licensing and Standards

ATTACHMENTS

Appendix 1 - Strategy to Minimize the Negative Impacts of Residential Infill Construction Activity

Appendix 1 - Strategy to Minimize the Negative Impacts of Residential Infill Construction Activity							
Objective	Action	Responsibility	2016-Q2	2016-Q3	2016-Q4	2017-Q1	2017-Q4
Encouraging Good Construction Practices	Introduce a ticketing pilot in Toronto Building for residential infill projects.	Toronto Building		X			
	When reporting back in Q4 2017 on proposed strategy, consider expanding ticketing to other divisions.	Toronto Building					X
	Introductory Building Inspection to outline all City expectations for builders and their obligations.	Toronto Building	X				
	Provide additional training to Building Inspectors on key zoning requirements in order to strengthen their ability to respond to zoning issues earlier.	Toronto Building	X				
	Improve verification of actual construction with approved permit drawings through additional divisional practices and training.	Toronto Building	X				
Improve Communication with Residents	Establish a dedicated City website with key information about construction, including orders and construction stages passed.	Toronto Building, in consultation with other divisions*			X		
	Require construction signage to be posted on site with key information for the public.	Toronto Building, in consultation with other divisions			X		
	Facilitate the development of a good neighbour guide for builders with BILD and residential ratepayer associations.	Toronto Building, in consultation with other divisions, BILD, residential ratepayer associations			X		
Improve City's Complaint Management Strategy	Toronto Building to implement the new staff resources to monitor issues and co-ordinate inter-divisional response to problem residential infill sites.	Toronto Building		X			
	Improve inter-divisional data collection on negative impacts of residential infill construction.	Toronto Building, and 311 with other divisions					X
	Municipal Licensing and Standards report to the Licensing and Standards Committee in Q1 2017 with recommendations with respect to dust control measures for residential infill construction.	Municipal Licensing and Standards in consultation with Toronto Building, Energy and Environment Office and Toronto Public Health				X	

*Other divisions include: Municipal Licensing and Standards, Transportation Services, Engineering and Construction Services, Parks, Forestry and Recreation, Toronto Fire Services, Toronto Water, Legal Services.