



February 23, 2016

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email: [pgmc@toronto.ca](mailto:pgmc@toronto.ca)

RE: PG 10.1 Strategy for Minimizing the Negative Impacts of Residential Infill Construction Activity

Dear Councillor Shiner and Members of the Planning and Growth Management Committee

We are writing to provide our comments on the above noted report. We support the proposed strategy to deal with issues related to residential infill construction sites, and would press for urgent action to address the issues, and early reporting back to Committee. We note that this report is aligned with and responds to the direction proposed by Councillor Jaye Robinson and approved by PGMC at its June 19, 2014 meeting

There are many aspects of this issue, from flagrant disregard or violation of planning and building laws to the nuisance issues that affect the quality of life, peace and quiet enjoyment by residents of their homes. The issue of illegal construction continues to be an issue and as acknowledged by the report, residents are frequently forced to become the “project managers” for these issues. Councillors’ offices are obviously burdened by these issues too.

The report stays at a “strategy level” and does not document the specific types of issues and the impacts of these issues. The experiences of engaged communities such as Leaside and Davisville should be carefully reviewed for learning as to improvements needed by the City. Established communities across the city are dealing with a growing volume of demolition and reconstruction of new homes that may not “fit” the neighbourhood, by virtue of excessive height and massing, and non-traditional architectural style. But in this context, of demolition and re-construction, the issue (assuming they went to the Committee of Adjustment for approval), is that there are sometimes questions as to whether they are being built in compliance with the Committee’s decisions, and in accordance with the building by-laws.

In Leaside three properties that have been carefully monitored by neighbours and the LPOA and documented through articles in the Leaside Life News and in two of them through OMB decisions. 27 Fleming Crescent is a particularly egregious example (<http://leaselifenews.com/builder-wont-stop-city-does-nothing/>) of a demolition and reconstruction project that demonstrate a lack of effective policies and effective enforcement.

It involved the flouting of numerous planning and building regulations including proceeding with construction without approval for minor variances (Zoning By-laws) and removal of walls so no longer considered a “renovation”, unauthorized change of grade, and failure to display a permit (building permit). This house, for which construction was eventually stopped, was resolved. The owner agreed to demolish, seek approval of a more appropriate house and start again.

151 Airdrie Road is another example. During the spring of 2015, 151 Airdrie was under construction, but neighbours questioned the height and massing of the house, for which several variances, including height, had been approved by the Committee of Adjustment the year before. The owner re-applied for height variances to legalize the structure already built, rather than modify it to confirm to the approvals in place. And regardless, construction continued. By June 11, 2015, the date of the second Committee of Adjustment hearing, the structure was entirely clad. At the Committee of Adjustment the main variance at issue was height (9.01M versus the by-law height of 8.5M). The Committee unanimously refused the application and the owner appealed the Committee’s decision to the OMB. In July 2015 the building inspector issued an order to comply and asked that they stop all work being carried out. And so since late July the construction site has sat, with a virtually completed house, except for some finishing on the inside. The OMB heard the appeal in December 2015. One of the neighbours at the hearing condemned the owner’s appeal as being:

“about bully planning; build first and assume that permission will follow because the structure is built out. This makes a mockery of the process and fools out of citizens that respect the law. Refusing this appeal for forgiveness goes a long way to send a message to builders and their agents that the process needs to be respected, not abused.”

We are pleased to say that in January of this year the OMB issued its decision to refuse the variances requested. So at this time the owner has a major problem. They can appeal the OMB decision to divisional court, or they will have to comply somehow. (The City is bound by the OMB decision).

How would this report, if approved by Council, make a difference? It seems to us that potentially it could make a major difference in several ways. It would introduce “ticketing” under the Provincial Offences Act, so that the whole process of getting compliance with the inspector’s directions would be expedited. A \$200 fine to a worker on site, repeated daily until the work stops is a significant penalty and should act as a deterrent. Also we support the project coordination approach across divisions that should enhance the City’s ability to effectively manage the buildings process.

However, while we support the overall strategic direction, we feel that the report lacks detail on the specific actions proposed, the implications (legal for example) and the timelines are too loose. Thus we recommend:

- That Recommendations 1 and 2 be approved;
- That Recommendation 3 and 4 be amended to require earlier report backs (fourth quarter of 2016) rather than those proposed in the report (fourth quarter of 2017);
- That Recommendation 4 dealing with dust control measure be coordinated with the Noise By-law issue currently being consulted on.

Finally, we appreciate that Toronto Buildings took the time to consult with FoNTRA (and SERRA) in the development of the strategy.

Thank you for the opportunity to comment on this important report.

Yours truly,

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Attachment – Leaside Infill issues

Cc: Will Johnston, Director and Deputy Chief Building Official  
Jennifer Keesmaat, Chief Planner and Executive Director, City Planning  
Joe Nanos, Director Community Planning, North York District  
Gregg Lintern, Director, Community Planning, Toronto and East York District

**The Federation of North Toronto Residents' Associations (FoNTRA)** is a non-profit, volunteer organization comprised of over 30 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The 27 residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.

## Documented Illegal Infill Construction Cases in Leaside

### Leaside Life articles and OMB decisions

Property	Leaside Life articles <a href="http://leasidelifenews.com/">http://leasidelifenews.com/</a>	OMB decision
27 Fleming	April 2014 July 2014 March 2015 July 2015	N/A
73 Donegall	Sept 2014 March 2015 July 2015 Dec 2015	PL140158 June 26 2014 PL150608 Oct. 21 2015
151 Airdrie	July 2015 Jan 2016 March 2016	PL150665 Jan. 26 2015