Request for a Fence Exemption – 223 Balmoral Ave.

**Date:** May 11, 2016

**To:** Toronto and East York Community Council

**From:** Scott Sullivan, District Manager
Municipal Licensing & Standards, Scarborough District

**Wards:** Ward 22, Toronto Centre-St. Paul's

**Reference Number:** IBMS No. 16 143502 FEN 00 IR

**SUMMARY**

This staff report concerns a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision.

The purpose of this report is to advise Council concerning an application by the property owner of 223 Balmoral Ave. for a site-specific Fence Exemption, pursuant to Section 447-2B(1) of Toronto Municipal Code, Chapter 447- Fences. The property owner is seeking Council's permission to maintain a fence which does not comply with maximum fence height restrictions stipulated by Section 447-2 of the bylaw.

**RECOMMENDATIONS**

Municipal Licensing & Standards recommends that the Toronto and East York Community Council:

1. Refuse to grant the application for an exemption permit, by the property owner of 223 Balmoral Ave for a fence that fails to comply with the provisions of Toronto Municipal Code, Chapter 447, Fences and direct that a second un-appealable Notice of Violation be issued under City of Toronto Municipal Code, Chapter 447 - Fences.

OR
1. Grant the application for a fence exemption permit, without conditions, thereby allowing the fence to be maintained as constructed. Direct and require that the installation be maintained in good repair without alteration. At such time as replacement of the fence is required that such installation will comply with Municipal Code Chapter 447, or its successor by-law.

Financial Impact

There is no financial impact anticipated in this report.

ISSUE BACKGROUND

The subject property, 223 Balmoral Ave. is located in Ward 22. It is composed of a two story detached, residential building and lands.

The property owner submitted a fence exemption application, in writing, on April 20, 2015, for an existing fence in the rear yard, in accordance with Section 447-2B(1) of Toronto Municipal Code, Chapter 447- Fences, listing "safety, privacy & aesthetics" as reasons for the application.

As required by Section 447-2B(1), Municipal Licensing & Standards has responded to the fence exemption application by preparing this report for Toronto and East York Community Council's consideration, and, the City Clerk has sent all requisite notifications of the date that Toronto and East York Community Council will consider the application. (Attachment 1)

Municipal Licensing Standards' investigated the existing fence installation and has determined that it does not comply with maximum height restrictions for residential fences provided by Section 447-2 of Toronto Municipal Code, Chapter 447- Fences, as detailed in the following chart:

<table>
<thead>
<tr>
<th>GENERAL LOCATION</th>
<th>SPECIFIC LOCATION</th>
<th>EXISTING CONSTRUCTION &amp; DEFICIENCY</th>
<th>BY-LAW SECTION &amp; REQUIREMENT*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rear Yard</td>
<td>1. Rear yard, south and west sides of the property.</td>
<td>2. Exceeds Height-2.16 Meters (7.1 ft.) high</td>
<td>Section 447-2 (B)(1)</td>
</tr>
</tbody>
</table>

Maximum height of 2 metres when measured at any point along its length from the average grade level measured perpendicular to and one metre away on either side of the fence.
Subsequently, a Notice of Violation was issued to the owners of 223 Balmoral Avenue based on the inspection conducted by a Municipal Standards Officer.

The use of wood is the existing construction material, incidentally, complies with bylaw requirements.

The following documents are attached to this report as reference materials: (1) photo showing the location of the existing fence (2) applicant's site plan (3) photo of fence in rear yard (4) photo of fence in rear yard (5) photo of fence in rear yard (6) IView survey of the property.

COMMENTS

While the proposed fence violates Toronto Municipal Code, Chapter 447- Fences with respect to height, it does not appear to contravene any other provisions of the bylaw.

CONTACT

James Slocum, Supervisor,
Municipal Licensing & Standards Division
Scarborough District
Tel. (416) 396-7739
Fax (416) 396-5650
E-mail: jslocum@toronto.ca

SIGNATURE

________________________________________
Scott Sullivan
Manager, Toronto and East York District

ATTACHMENTS

Attachment #1: Applicant's Photo of existing fence.
Attachment #2: Applicant's site plan of existing fence
Attachment #3: Photo of rear yard
Attachment #4: Photo of rear yard
Attachment #5: Photo of rear yard
Attachment #6: IView survey of the property
List of Names Provided by ML&S to City Clerk for Council Meeting Notification

1. Councillor Joe Mihevc, Ward 21, 100 Queen St. West, Toronto, ON M5H 2N2
2. Julie and Stephen Callahan, 223 Balmoral Ave St. Toronto, ON M4V 1K1
   (Applicant)
Applicant's Photo of existing fence.
Photo of rear yard
Photo of rear yard
Photo of rear yard
IView survey of the property