

Noise Exemption Permit Refusal Appeal - 18 Spadina Avenue

Date: January 16, 2019

To: Toronto and East York Community Council

From: Director, Bylaw Enforcement, Municipal Licensing and Standards

Wards: 10

SUMMARY

This staff report pertains to a matter for which Toronto and East York Community Council has delegated authority from City Council to make a final decision, namely a final decision under Toronto Municipal Code Chapter 591, Noise (Noise By-law) to either grant or refuse a noise exemption permit application.

If the Community Council grants the noise exemption permit application, it is subject to the conditions set out in § 591-3.2.D of the Noise By-law, unless the Community Council determines otherwise, and to any other conditions respecting health, safety and nuisance as the Community Council considers advisable.

The matter before the Community Council is an application for a noise exemption permit submitted by EllisDon Corporation for construction noise for The Well project at 18 Spadina Avenue. The application was refused by Municipal Licensing and Standards on the basis of the Ward Councillor's objection to it and the applicant has appealed the refusal.

RECOMMENDATIONS

The Director, By-law Enforcement recommends that the Toronto and East York Community Council consider the noise exemption permit application submitted by EllisDon Corporation for construction noise for The Well project at 18 Spadina Avenue and decide to:

1. Refuse the application. OR,
2. Grant the application subject to the conditions set out in § 591-3.2.D of the Noise By-law, unless the Community Council determines otherwise, and to any other conditions respecting health, safety and nuisance as the Community Council considers advisable.

FINANCIAL IMPACT

There are no financial impacts expected as a result of a decision by Community Council to either refuse or grant the noise exemption permit.

DECISION HISTORY

As required by the Noise By-law:

On November 14, 2019, the applicant, EllisDon Corporation, submitted a noise exemption permit application for construction noise for The Well project at 18 Spadina Avenue. (Attachment 1)

Municipal Licensing and Standards provided notice of the application to the Ward Councillor.

On November 19, 2019, the Ward Councillor responded to the notice objecting to the application being approved. (Attachment 2)

Municipal Licensing and Standards refused the noise exemption permit application based on the Ward Councillor's objection.

On November 21, 2019, Municipal Licensing and Standards provided notice of the refusal to the applicant, advising the applicant that this refusal could be appealed to the local Community Council. (Attachment 3)

On November 26, 2019, the applicant filed an appeal of the refusal. (Attachment 4)

The hearing is scheduled for Wednesday, February 5, 2020.

On Friday, January 10, 2020, MLS provided a Notice of Hearing to all residents within 100 metres of the location.

COMMENTS

Noise Exemption Permits – Process:

The Noise By-law provides standards for noise and applies to all properties in Toronto. Applications for noise exemption permits may be made for special events, events in parks, and construction activity that extends beyond permitted hours under § 591-3.2 of the Noise By-law. The applicant is required to submit an application, pay the applicable fee, and provide any supporting information relevant to the noise exemption permit application.

This information may include reasons supporting an exemption, a noise mitigation plan, or a statement certified by a professional engineer or acoustical consultant for any sounds that are not technically or operationally feasible to control.

Exemption permits are reviewed by the Ward Councillor(s), and issued if the Councillor approves the exemption or does not respond within 14 days. The Noise Exemption application submitted by the applicant on November 14, 2019, fulfilled all the requirements of the Bylaw (591-3.2 C 3 (a-f) including payment of the applicable fees.

If the application is approved, then the applicant is required to adhere to the eight conditions in § 591-3.2.D. These conditions include posting the noise exemption permit in a visible location, following the noise mitigation plan provided, adhering to a maximum sound level of 85 dB(A), and if required, paying for City staff to monitor the sound levels.

If an exemption permit is objected by the Ward City Councillor(s), an applicant may appeal within 21 days of the decision to the local Community Council(s). If appealed, then notice of hearing is sent to all residents within 100 metres of the location where the event or activity is proposed to be held.

The Executive Director, Municipal Licensing and Standards (MLS) has the authority to revoke a noise exemption permit if there is non-compliance with its conditions.

Applicant is seeking a Noise Exemption Permit For: Construction Noise

Construction Noise

Under § 591-2.3 of the Noise By-law, the prohibited time periods for construction noise are from 7 p.m. to 7 a.m. the next day, except until 9 a.m. on Saturdays, and all day on Sundays and statutory holidays.

The applicant, EllisDon, is seeking a noise exemption permit to extend their hours of work for the following time periods:

- 6 a.m. - 7 a.m. from November 30, 2019 to April 21, 2021 (Crane & Hoist)
- 6 a.m. - 7 a.m. from November 30, 2019 to October 31, 2020 (Reinforcing Bar)
- 7 p.m. - 11 p.m. from January 1, 2020 to April 31, 2021 (Curtain Wall)
- 7 p.m. - 11 p.m. from February 1, 2020 to April 8, 2021 (Deliveries)

Enforcement History:

Since the creation of the Noise Team on October 1, 2019, Municipal Licensing and Standards has received no public complaints related to noise from The Well project at 18 Spadina Avenue. Prior to this, noise complaints were addressed through the Municipal Licensing and Standards' Investigation Services Unit. A review of enforcement history prior to October 1, 2019 shows that there have been no noise-related complaints associated with 18 Spadina Avenue since the start of this project on May 1, 2018.

CONTACT

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SIGNATURE

Rod Jones
Director, Bylaw Enforcement

ATTACHMENTS

Attachment 1 - Noise Exemption Application for The Well (18 Spadina Avenue)
submitted by EllisDon Corporation

Attachment 2 - Written Communication from the Ward Councillor's Office

Attachment 3 - Refusal of Application Letter

Attachment 4 - Noise Exemption Appeal Letter for The Well (18 Spadina Avenue)
submitted by Ellis Don Corporation