

Noise Exemption Permit Refusal Appeal – 45 Strachan Avenue

Date: December 1, 2021

To: Toronto and East York Community Council

From: Director, Bylaw Enforcement, Municipal Licensing and Standards

Wards: 10

SUMMARY

The matter before the Community Council is an appeal application for a noise exemption permit submitted by EllisDon Residential Inc., for construction noise for a 40 storey residential project at the north-east corner of Strachan Avenue and Ordance Street.

The project consists of three (3) commercial retail units on the ground floor and 425 high-end rental units. The application was refused by Municipal Licensing and Standards (ML&S) on the basis of the Ward Councillor's objection. The applicant has appealed the refusal.

As required for the appeal process, this staff report provides information to assist in the decision making 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 given the appeal.

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.

RECOMMENDATIONS

The Director, By-law Enforcement recommends that the Toronto and East York Community Council consider the noise exemption permit application submitted by EllisDon Residential Inc. for construction noise for a 40 storey residential project at the north-east corner of Strachan Avenue and Ordance Street 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 October 8, 2021, the applicant, EllisDon Residential Inc., submitted a noise exemption permit application for construction noise for a 40 storey residential project comprising three (3) commercial retail units on the ground floor and 425 high-end rental units at the north-east corner of Strachan Avenue and Ordance Street. (Attachment 1)

Municipal Licensing and Standards (ML&S) provided notice of the application to the Ward Councillor via email on October 13, 2021. Subsequently, the Ward Councillor responded to the notice objecting to the application being approved. Accordingly, Municipal Licensing and Standards (ML&S) refused the noise exemption permit application based on the Ward Councillor's objection.

On October 14, 2021, ML&S provided notice of the refusal to the applicant, advising the applicant that this refusal could be appealed to the local Community Council. (Attachment 2)

On October 28, 2021, the applicant filed an appeal of the refusal. (Attachment 3)

The hearing is scheduled for January 6, 2022.

ML&S will be providing the Notice of Hearing to all residents within 100 metres of the location on or before December 15, 2021.

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 October 8, 2021, 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), expressed in terms of Leq for a 10 minute period
- ensuring that only the construction equipment approved under the exemption permit shall be used
- complying with the dates and times set out in the exemption permit

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 (ML&S) 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 Residential Inc., is seeking a noise exemption permit to extend their hours of work from December 22, 2021 to December 13, 2024, from 6:00 am to 11:00 pm Monday to Friday, excluding holidays.

The main construction activities will be:

- Concrete forming – starting at 6:00 am (Monday to Friday)
- Tower crane (electric), small material handling equipment with mufflers (diesel)

The applicant has proposed the following noise mitigation measures:

- All deliveries are planned for after 7:00 am
- Construction activities will be kept to a minimum during extended hours
- Most work will be done by manual labour
- Equipment is electric powered with a few being diesel with mufflers
- All site personnel will be instructed to keep noise to a minimum
- Toolbox talks will be conducted in advance

Enforcement History:

Municipal Licensing and Standards (ML&S) has not received any complaints in relation to construction noise for 45 Strachan Avenue.

CONTACT

Rose Burrows, District Manager, Dedicated Noise Team, Municipal Licensing & Standards, 416-392-7810, Rose.Burrows@toronto.ca

SIGNATURE

Anna Fernandes
Director of Bylaw Enforcement

ATTACHMENTS

Attachment 1: Noise Exemption Application
Attachment 2: October 14, 2021 ML&S Notice of refusal letter
Attachment 3: October 28, 2021 Applicant's appeal letter