

Noise Exemption Permit Refusal Appeal – 55 Charles Street East

Date: January 24, 2022

To: Toronto and East York Community Council

From: Director, Bylaw Enforcement, Municipal Licensing and Standards

Wards: 13

SUMMARY

The matter before the Community Council is an appeal application for a noise exemption permit submitted by MOD Developments Inc., for general construction activity including the loading and unloading of material, operation of construction equipment, use of power tools and devices to perform construction, and operation of motor vehicles.

The project, located at 55 Charles Street East, Toronto, also known as 55 Charles Bloor Yorkville Residences, is a 48-storey condominium.

The noise exemption permit was requested to expedite the overall completion of construction activity and mitigate the long term exposure of construction noise to the neighbouring community.

The noise permit is specifically requested to remove the restriction of bylaw § 591-2.3.(1), which restricts noise between 7am and 9am on Saturdays only.

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 MOD Developments Inc. for construction noise related to the development located at 55 Charles Street East, Toronto 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, MOD Developments Inc., submitted a noise exemption permit application for construction noise related to the development located at 55 Charles Street East, Toronto. The exemption permit was obtained in order to expedite the overall completion of construction activity and mitigate the long term exposure of construction noise to the neighbouring community. (Attachment 1)

Municipal Licensing and Standards (ML&S) provided notice of the application to the Ward Councillor via email on October 21, 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 December 17, 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 January 11, 2022, the applicant filed an appeal of the refusal. (Attachment 3)

The hearing is scheduled for February 16, 2022.

ML&S will be providing the Notice of Hearing to all residents within 100 metres of the location on or before February 2, 2022.

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), 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 (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, MOD Developments Inc., is seeking a noise exemption permit to extend their hours of work from October 8, 2021 to January 1, 2024, from 6:00 am one day to 6:00 am the next day Monday to Saturday, excluding Sundays and statutory holidays.

The main construction activities will be:

- General construction activity, including the loading and unloading of material, operation of construction equipment, use of power tools and devices to perform construction, and operation of motor vehicles
- This permit is requested so as to expedite the overall completion of construction activity and mitigate the long term exposure of neighbors to construction noise.
- The noise permit is specifically requested to remove the restriction of bylaw § 591-2.3.(1), which restricts noise between 7am and 9am on Saturdays only

The applicant has proposed the following noise mitigation measures:

- When possible, inbound vehicle path of travel will mitigate reversing signals
- When possible, sound barriers will be used to muffle motorized equipment
- No idling is to be permitted
- Use of the crane hook instead of the forklift to be prioritized to reduce noise, where possible
- When possible, work with noisy equipment to be conducted away from the property line to reduce sound transmission
- Equipment is to be regularly maintained to minimize unnecessary sound transmission
- Site neighbours will be advised of large concrete pours and 6:00 am commencement of work on Saturdays
- Notifications to neighbors will be provided each week if construction is to occur outside of regular working hours on a Saturday
- Trade Contractors will be issued a memorandum outlining the requirements for reducing noise from work occurring outside of normal hours of operation, and will be required to reiterate these requirements to staff at every tool box talk



Photo taken on January 13, 2022

Complaint History:

Municipal Licensing and Standards (ML&S) has received a total of 45 complaints, from October 2020 to January 2022, in relation to construction noise for the project located at 55 Charles Street East.

<u>Case Number</u>	<u>Subject</u>	<u>Status</u>
00086439	Construction Noise	In Progress
00086375	Construction Noise	New
00083429	Construction Noise	In Progress
00083428	Construction Noise	In Progress
00083417	Construction Noise	In Progress
00082273	Construction Noise	In Progress
00082269	Construction Noise	In Progress
00082264	Construction Noise	In Progress
00082261	Construction Noise	In Progress
00081902	Construction Noise	In Progress
00081897	Construction Noise	In Progress
00081894	Construction Noise	In Progress
00081442	Construction Noise	In Progress
00081433	Construction Noise	In Progress
00080852	Construction Noise	In Progress
00080261	Construction Noise	Closed
00069994	Stationary Source Noise	Closed
00067697	Construction Noise	Closed
00062903	Unreasonable and Persistent Noise	Closed
00062240	Construction Noise	Closed
00062239	Construction Noise	Closed
00060079	Construction Noise	Closed

<u>Case Number</u>	<u>Subject</u>	<u>Status</u>
00059092	Construction Noise	Closed
00057738	Construction Noise	Cancelled
00056447	Construction Noise	Closed
00055659	Construction Noise	Closed
00055657	Construction Noise	Closed
00055656	Construction Noise	Closed
00054683	Construction Noise	Closed
00053856	Construction Noise	Closed
00051922	Construction Noise	Closed
00051576	Construction Noise	Closed
00051575	Construction Noise	Closed
00051574	Construction Noise	Closed
00050935	Construction Noise	Closed
00050745	Construction Noise	Closed
00050720	Construction Noise	Closed
00049514	Construction Noise	Closed
00049422	Construction Noise	Closed
00049368	Construction Noise	Closed
00049096	Construction Noise	Closed
00048904	Construction Noise	Cancelled
00048756	Construction Noise	Cancelled
00046065	Construction Noise	Closed
00045094	Unreasonable and Persistent Noise	Cancelled

Enforcement History:

To date, there has been one 'range' charge (March 22, 2021 to May 21, 2021) issued, based on a noise log, for construction activity during prohibited times. The matter is before the Court.

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: December 17, 2021, ML&S Notice of refusal letter
Attachment 3: January 11, 2022, Applicant's intent to appeal Email to the City Clerk