

Noise Exemption Permit Refusal Appeal – 45 Strachan Avenue – C354688

Date: September 28, 2023

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 Corporation for Man and Material Hoist Start Up/Safety and Movement of Personnel from 6:30 am to 7:00 am Monday to Friday.

The project, located at 45 Strachan Avenue, Toronto, also known as 45 Strachan is a 39 -storey residential/commercial rental tower with 433 units.

The noise exemption permit was requested for the start-up and safety of the Man and Material (M&M) Hoist by having the operator run it and conduct safety checks which includes running the hoist up and down the mast. This operation is to start at 6:30 am (Mondays to Fridays only) and following the completion of the safety check personnel can use the Hoist to their designated floor to start work at 7:00 am.

The noise permit is specifically requested to remove the restriction of bylaw § 591-2.3.(1), which restricts construction noise between 7pm to 7am, Monday to Friday.

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 Corporation for construction noise for a 39 storey residential project at 45 Strachan Avenue and decide to:

1. Refuse; 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 September 11, 2023, the applicant, EllisDon Corporation, submitted a noise exemption permit application for construction noise related to the development located at 45 Strachan Avenue, Toronto. The exemption permit was obtained in order to allow for the safety check of the man and material hoist to begin at 6:30 am which includes running of the hoist. (Attachment 1)

Municipal Licensing and Standards (ML&S) provided notice of the application to the Ward Councillor via email on September 12, 2023. 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 September 13, 2023, 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 September 14, 2023 the applicant filed an appeal of the refusal. (Attachment 3)

The hearing is scheduled for October 18, 2023.

ML&S will be providing the Notice of Hearing to all residents within 100 metres of the location on or before October 6, 2023.

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 September 11, 2023, 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, EllisDon Corporation, is seeking a noise exemption permit to extend their hours of work from September 30, 2023 to January 4, 2024, from 6:30 am to 7:00 am Monday to Friday.

The main construction activities will be:

- To conduct a start-up and safety of the man and material hoist including taking personnel to their designated work area/floor to prepare for their work start at 7:00 am.
- The noise permit is specifically requested to remove the restriction of bylaw § 591-2.3.(1), which restricts noise before 7am, on Monday to Friday.

The applicant has proposed the following noise mitigation measures:

- The hoist will only travel up and down the Tower with 4 or more personnel at any given time to reduce constant noise.



Complaint History:

Municipal Licensing and Standards (ML&S) has received a total of 22 complaints, from January 7, 2022 to September 26, 2023, in relation to construction noise for the project located at 45 Strachan Ave.

<u>Case Number</u>	<u>Subject</u>	<u>Status</u>	<u>Reasons</u>
<u>00120903</u>	<u>Construction Noise</u>	In Progress	
<u>00121388</u>	<u>Construction Noise</u>	In Progress	
<u>00120974</u>	<u>Construction Noise</u>	In Progress	
<u>00121338</u>	<u>Construction Noise</u>	Cancelled	In compliance with Bylaw
<u>00119571</u>	<u>Construction Noise</u>	Closed	Unable to contact complainant
<u>00118993</u>	<u>Construction Noise</u>	Closed	In compliance with permit
<u>00119419</u>	<u>Construction Noise</u>	Cancelled	In compliance with permit
<u>00109937</u>	<u>Construction Noise</u>	Closed	In compliance with permit
<u>00105889</u>	<u>Construction Noise</u>	Closed	Insufficient evidence, no follow-up contact with complainant
<u>00110287</u>	<u>Stationary Source Noise</u>	Closed	In compliance with permit
<u>00091584</u>	<u>Construction Noise</u>	Closed	Insufficient evidence
<u>00089938</u>	<u>Construction Noise</u>	Closed	Insufficient evidence, no follow-up contacts with complainant
<u>00091914</u>	<u>Construction Noise</u>	Closed	Insufficient evidence, no follow-up contacts with complainant
<u>00086456</u>	<u>Construction Noise</u>	Closed	In compliance with Bylaw hours
<u>00086455</u>	<u>Construction Noise</u>	Closed	In compliance with Bylaw hours
<u>00087734</u>	<u>Construction Noise</u>	Closed	Duplicate File
<u>00086512</u>	<u>Construction Noise</u>	Closed	In compliance with Bylaw hours No further evidence from complainant
<u>00087012</u>	<u>Construction Noise</u>	Closed	In compliance with Bylaw hours No further evidence from complainant
<u>00087074</u>	<u>Construction Noise</u>	Closed	In compliance with Bylaw hours

			No further evidence from complainant
<u>00119413</u>	<u>Construction Noise</u>	Cancelled	In compliance with Permit
<u>00112442</u>	<u>Construction Noise</u>	Cancelled	Not a Noise bylaw contravention
<u>00088641</u>	<u>Construction Noise</u>	Closed	Insufficient evidence, no follow up contact with complainant

Enforcement History:

To date, there have been no charges issued.

Permit History:

There have been no Construction Permits issued. Below are the Continual Concrete Pour Permits issued. Mitigation Plans have been requested and received from the applicants. Due to numbers of complaints, the time periods for approval ranged from 1 month to 4 months over this time period to compel compliance.

Permit #	Type	Date range
P45-5201509	Continual Concrete Pour (CCP)	March 2 – June 1, 2022
P45-5208068	CCP	June 1 – Sept 4, 2022
P45-5220147	CCP	July 28 – Aug 28, 2022
P45-5239500	CCP	Jan 1 – May 5, 2023
P45-5318448	CCP	May 6 – July 7, 2023
P45-5329338	CCP	July 8 – Sept 30, 2023
P45-5354689	CCP	October 1 – Jan 4, 2024

CONTACT

Leo Butko, Supervisor, Dedicated Noise Team, Municipal Licensing & Standards, 416-338-3158, leo.butko@toronto.ca or:
Terry Van Elswyk, Manager, Dedicated Noise Team, Municipal Licensing & Standards, 416-338-3211, terry.vanelswyk@toronto.ca

SIGNATURE

Anna Fernandes
Director of Bylaw Enforcement

ATTACHMENTS

Attachment 1: Noise Exemption Application
Attachment 2: September 13, 2023, ML&S Notice of refusal letter
Attachment 3: September 14, 2023, Applicant's intent to appeal Email to the City Clerk

Noise Exemption Permit

Overview

This application for a Noise Exemption Permit consists of a mandatory submission page as well as unique appendices for each of the types of permits.

APPENDIX 1	Amplified Sound
APPENDIX 2	Construction Activity
APPENDIX 3	Continuous Concrete Pouring and/or Large Crane Work
APPENDIX 4	Other

Please complete the mandatory submission page as well as the appropriate appendix.

Who to contact for more information:

If you would like more information or require this in an alternate format to be accessible, please contact the Municipal Licensing & Standards (ML&S) Noise Team. Offices are open Monday to Friday 8:00AM to 4:00PM, except on holidays.

Noise Team
1530 Markham Road, 3rd Floor
Toronto, ON M1B 3G4
Email Address: NoiseTO@toronto.ca
Phone: 416-392-4380

Noise Regulations and Exemption

Toronto Municipal Code [Chapter 591](#) Noise, provides regulations for noise in the city with the intention of reducing the impact of unwanted in the sound on the inhabitants of the City.

The noise bylaw also allows for circumstances where an exception to the regulated time and sound level requirements in the bylaw may be exceeded through a Noise Exemption Permit process as long as conditions have been met.

Who needs to apply?

People who are responsible for one or more events or activities that may be in contravention of the noise bylaw may apply for a Noise Exemption Permit. The types of activities could include: construction noises outside the allowable hours, including continuous concrete pouring and large crane work or special events that facilitate amplified sounds.

Noise Exemption Permit

Application Process & Fees

Noise Exemption Permits are provided in 591-3.2. On receipt of an application that is satisfactory to Municipal Licensing and Standards (ML&S), ML&S provides notice, in writing, to the local Ward Councillor(s) where the event or activity is to be held. The Councillor(s) has 14 days to review and respond to the notice. ML&S approves the application if:

- the Councillor(s) does not respond within 14 days, or responds indicating that they have no objection to the application being approved;
- the applicant has complied, to the satisfaction of ML&S, with the last exemption permit issued to them (if applicable);
- the applicant has provided information as requested by ML&S (such as the purpose of the exemption permit, the description of any sound equipment, contact information, etc.); and
- the applicant has paid all required fees.

Under 591-3.2 E (1), where ML&S refuses to grant Noise Exemption Permit, the applicant is notified in writing that they may appeal the decision to the Community Council which has jurisdiction for the location of the proposed event or activity. The timeline for filing the appeal is 21 days of the date of the notice. The appeal fee must also be paid.

Where an application for a Noise Exemption Permit is made for continuous concrete pouring or large crane work, the application is not sent to the local Councillor(s). An exemption permit for continuous concrete pouring and large crane work may be issued if the information requested by ML&S is satisfactory and the conditions of the permit have been met.

Applicants must apply for a permit at least four weeks before the event or activity is to occur and understand further information may be requested.

How to apply:

Noise Exemption Permit applications can be submitted by email, regular mail, or in-person. **All applicants must also pay the \$100 application fee.** Choose ONE of the following methods to apply:

Noise Exemption Permit

1. EMAIL

Email the completed application to NoiseTO@toronto.ca. Once the application has been submitted, applicants will receive an invoice number by email. This invoice can then be paid online at the City of Toronto [Licensing Services Payments web page](#).

2. IN-PERSON

Submit the completed application and pay the fee in person at this office from 8:30AM to 4:00PM:

Licence & Permit Issuing Office
850 Coxwell Ave., 3rd floor
Toronto, ON M4C 5R1

3. REGULAR MAIL

Mail the completed application and cheque or money order to:

Bylaw Enforcement, Noise Team
1530 Markham Road, 3rd Floor
Toronto, ON, M1B 3G4

Payment information:

The Business Licensing & Regulatory Services office accepts cash, cheques and money orders, credit, and debit. Cheques and money orders should be made payable to "City of Toronto Treasurer."

Monitoring fee:

This is an additional fee separate from the application fee. Some events may require noise monitoring by city staff. Upon review of a Noise Exemption Permit application, should the City deem noise monitoring to be a condition for permit approval, the applicant shall be notified. Payment of the assessed monitoring fee must be received prior to permit issuance. The monitoring fee is \$60 per hour per officer plus applicable taxes. Events occurring after 7 pm may require two officers.

Application Package

A Noise Exemption Permit application package must have the following:

- ☐ A completed Noise Exemption Permit application form
- ☐ The \$100 application fee (no tax)
- ☐ If previously required, supplementary reasons supporting an exemption permit
- ☐ The appropriate completed appendix

Noise Exemption Permit

Additional Information may be requested

Upon initial review of the Noise Exemption Permit application Municipal Licensing & Standards may require:

1. **Reasons supporting an exemption permit.** You may be requested to provide supplementary reasons in greater detail in addition to the information required in this application.
2. **Noise Mitigation Plan.** You may be required to submit a noise mitigation plan outlining actions to be taken to reduce and mitigate the impact of the noise event.
3. **Statement certified by a professional engineer or acoustical consultant.** You may be required to submit a statement for any sounds that are not technically or operationally feasible to control.

Applicant Information

First Name		Last Name	
Street Number	Street Name		Suite/Unit Number
City/Town		Province	Postal Code
Work Telephone Number	Mobile Telephone Number		Email

Identify the organization and/or contact individual (below) who will be responsible for the activity or event requiring exemption, if it is different from the individual applying for the exemption.

Organization Information (if applicable)

Organization Name			
Street Number	Street Name		Suite/Unit Number
City/Town		Province	Postal Code
Business Telephone Number	Business Mobile Number		Business Email

Noise Exemption Permit

Appendix 2 – Construction Activity

Location of Construction Activity

Location of Building or Project Name (if applicable)			
Street Number	Street Name		Suite/Unit Number
City/Town		Province	Postal Code
Other Location Information (for example, if it is road work – on Dundas St W from Dufferin St to Bathurst St – please show on site plan)			
Was a Temporary Street Occupation Permit granted? ☐ Yes ☐ No		Permit # (Please attach)	

Construction Activity Information

Main Activity Type
Describe the activity and brief description of why a noise permit is required, including the type of noise impacts anticipated.

Noise Exemption Permit

Equipment

Describe in point form each type of construction equipment which will be used, how it will be used, and if appropriate what types of noise mitigation systems will be incorporated. (E.g. Diesel Generator to provide power to site will be placed furthest location from residents. Acoustical shroud installed.)

Noise Exemption Permit

Dates and Times

List the dates and start and end times of your construction activity. Note that any noise from any construction vehicle or activity outside the approved start and end times is prohibited. This includes any loading/unloading or back up warning of construction equipment.

Activity		
Date(s) (yyyy-mm-dd)	Start time	End time
Monday to Friday		
Starting 2023-09-30		
Saturday		
Ending 2024-01-04	9:00 AM	5:00 PM

Staff on Site during Event

One or more people are required to be on-site supervising throughout the entire duration of the event, and are responsible to ensure compliance with the permit's terms. Please list their contact information here.

Name (First, Last)	Business Telephone Number (Site)
Position Title:	
Name (First, Last)	Business Telephone Number (Site)
Position Title:	
Name (First, Last)	Business Telephone Number (Site)
Position Title:	

Mitigation Measures – Site Organization

Describe what steps you will take to reduce the impact of the noise. (E.g. measures could include locating construction equipment away from residences, discouraging queuing of vehicles prior to site opening.)

Noise Exemption Permit

Mitigation Measures - Equipment

Describe what steps you will take to reduce the impact of the noise. (E.g. measures could include sound barriers to muffle generators.)

Mitigation Measures - Other

Describe what steps you will take to reduce the impact of the noise. (E.g. measures could include, training staff, traffic mitigation.)

Attachments, if Required

ML&S may require after review of the initial permit application any or all these further attachments before a decision is made.

- ☐ 1) Reasons supporting an exemption permit, and/or
- ☐ 2) A Noise Mitigation Plan, and/or
- ☐ 3) A statement certified by a professional engineer or acoustical consultant

Required Conditions

If the exemption permit is granted, the applicant must abide by all conditions in the permit. This includes a notice of the exemption permit to be posted in a visible location where each event will occur 7 days prior to the event. This condition may be waived by ML&S.

Noise Exemption Permit

Authorized Signature

By submitting this application for a Noise Exemption Permit, the Applicant shall at all times observe and comply with, and endeavour to ensure strict observance of and compliance with all statutory requirements, rules, regulations, by-laws, terms and conditions, or other authority which in any manner affect or related to this permit, including without limitation, the by-laws of the City of Toronto.

Note that an exemption permit is not guaranteed; an exemption permit is issued pending approval from the area Councillor and all applicable fees paid. The application fee is non-refundable.

Applicant Signature 	Date (yyyy-mm-dd)
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Note: It is an offence to knowingly provide false information in this application. Every person who fails to comply with an exemption permit issued is guilty of an offence and on conviction is liable to a fine of no more than \$100,000.

Municipal Licensing and Standards collects personal information on this form under the legal authority of the City of Toronto Act, 2006, SO 2006, Chapter 11, Schedule A, s 136 (c) and the Toronto Municipal Code, Chapter 591, Noise, s 591-10. The information is used to determine the eligibility for noise exemption permit(s) outside permitted hours and for further communication regarding the application. Questions about this collection can be directed to the Manager, Noise Team, 1530 Markham Rd, 3rd Floor, Toronto, Ontario, M1B 3G2 or by telephone at 416-392-4380.

Municipal Licensing and Standards
Carleton Grant, Executive Director

**Municipal Licensing and Standards
Bylaw Enforcement**
1530 Markham Road, 3rd Floor
Toronto, ON M1B 3G4

Terry Van Elswyk
Manager
Dedicated Noise Team
Tel: 416-338-3211
Terry.VanElswyk@toronto.ca
www.toronto.ca/mls

September 12, 2023

VIA EMAIL & REGISTERED MAIL

Pegah Moghani
Ellisdon Residential Inc
1004 Middlegate Road
Mississauga, Ontario L4Y 1M4

**Re: Noise Exemption Permit – Application No. C354688
45 Strachan Avenue**

Dear Pegah Moghani:

Please be advised that your application for a noise exemption permit has been denied for the following reason:

1. Pursuant to Toronto Municipal Code, Chapter 591, Noise, Section 3.2 – Exemption Permits, the City Councillor where the activity is to take place has provided an objection to the application being approved.

As a result, Municipal Licensing and Standards is not able to approve this noise exemption permit application.

Please be advised that you may appeal this decision to the community council which has jurisdiction for the location of the proposed activity by filing an appeal within 21 days of the date of this notice with the City Clerk at City Clerk's Office, City of Toronto, City Hall, 2nd Floor, 100 Queen Street West, Toronto, Ontario, M5H 2N2. There is a fee for filing this appeal as well as a charge for notification to all residents within 100 metres of the location of the proposed activity.

For more information on this application denial or the appeal process, please contact the Bylaw Enforcement, Noise Team at NoiseTO@toronto.ca or by telephone at 416-392-4380.

Sincerely,



Terry Van Elswyk, Manager
Dedicated Noise Team

Copy: City Clerk

From: Pegah Moghani <pmoghani@ellisdon.com>
Sent: September 14, 2023 8:22 AM
To: Toronto East York Community Council <teycc@toronto.ca>
Cc: Kevin Garcia <kgarcia@ellisdon.com>; NoiseTO <NoiseTO@toronto.ca>; 45 Strachan Development <ed-70543@gatethree.ca>
Subject: [External Sender] 45 Strachan Development - Noise Exemption Permit - Application No. C354688 Appeal

Good morning,

Referencing the attached denial letter, EllisDon would like to appeal this decision.

Please advise how we can proceed with the appeal process.

Appreciate your assistance.

Thank you,

Pegah Moghani

Project Manager

EllisDon Corporation

1004 Middlegate Road
Mississauga, ON, L4Y 1M4

M: 416-409-4861

E: pmoghani@ellisdon.com

www.ellisdon.com

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From: NoiseTO <NoiseTO@toronto.ca>
Sent: Wednesday, September 13, 2023 2:29 PM
To: Pegah Moghani <pmoghani@ellisdon.com>
Cc: Kevin Garcia <kgarcia@ellisdon.com>; '45 Strachan Development' <ed-70543@gatethree.ca>
Subject: RE: 45 Strachan Development - Noise Exemption Permit Application (Renewal)

Good afternoon,

Unfortunately, the Councillor has denied the Noise Exemption request. Please find attached the denial letter which includes ways in which to appeal the Councilor's decision.

Patricia Buenafe

Support Assistant C

City of Toronto | Municipal Licensing and Standards

399 The West Mall | Toronto, ON, M9C 2Y2

Tel: 416.392.6145 | E-mail: patricia.buenafe@toronto.ca



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