

COMMITTEE OF THE WHOLE SEPTEMBER 15, 2003

FORTIFICATION BY-LAW

Recommendation

The Director of Legal Services recommends that a by-law be enacted to prevent the excessive fortification of buildings and land.

Purpose

To seek Council enactment of a Fortification By-law, pursuant to Council direction.

Background

A uniform Fortification By-law, common to all area municipalities, would prohibit excessive fortification or excessive protection to land and buildings. The by-law is intended to address the safety of emergency personnel, including fire and police, as well as the safety of occupants of buildings and occupants of nearby properties. Excessive fortifications on land or buildings hinder access and present hazards to public safety.

The *Municipal Act* was amended in 2001 to enable those municipalities who enforce the *Building Code Act* to pass by-laws to regulate fortification of buildings and land. In York Region, the *Building Code Act* is the responsibility of area municipalities. However, the Region is responsible for Police Services and Emergency Services and therefore, it has an interest in ensuring that a by-law is adopted in a consistent manner in all area municipalities.

The Region of York, in conjunction with York Region Police Services, facilitated the co-ordination of a model fortification by-law with area municipalities. A draft by-law was circulated among area municipalities for review and comments. The purpose was to implement a uniform Fortification By-law common to all area municipalities and to establish best practices for the application of such a by-law. The draft by-law was endorsed by the Ontario Association of Chiefs of Police and is a province-wide model.

The by-law would address any situation in which the protective elements applied to buildings or land might pose a risk to both occupants and law enforcement/emergency services personnel in an emergency or law enforcement situation.

On September 23, 2002, Council resolved that staff institute a by-law that would prevent the fortification of residential addresses.

Analysis and Options

Section 133 of the *Municipal Act, 2001* states:

- (1) Fortification of land. – A municipality that is responsible for the enforcement of the *Building Code Act, 1992* may,
 - (a) regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land; and
 - (b) prohibit the excessive fortification of land or excessive protective elements being applied to land in relation to the use of the land.

A fortification by-law is not intended to address *Planning Act* issues such as building location, or normal site plan issues.

Excessive fortification includes, amongst other things, the “application of steel sheeting ...such as to protect against firearms artillery, explosives, vehicle contact, shock and the like”.

Excessive protection includes, amongst other things, “electrified fencing ...hidden traps..., land mines ...or any weapon or thing that may become a weapon when triggered ...on encroachment to land...”.

Financial institutions and police services are exempt. The by-law would not apply to reasonable fortifications and protection provided by commercially marketed household security devices. Application may be made to the Chief Building Official for partial or complete exemptions.

Conclusion

Pursuant to Council’s direction, in would be in order to enact the Fortification By-law.

Report prepared by:

Claudia A. Storto

Respectfully submitted,

Heather A. Wilson
Director of Legal Services