

## **COMMITTEE OF THE WHOLE - OCTOBER 6, 2008**

### **FENCE HEIGHT EXEMPTION – 166 WESTMOUNT BLVD. – WARD 4**

#### **Recommendation**

The Director of Enforcement Services recommends:

That the fence height exemption application for 166 Westmount Blvd. be approved.

#### **Economic Impact**

N/A

#### **Communications Plan**

Notification/Request for Comment letters were sent to surrounding neighbours within a 60 metre radius, one (1) objection and (2) letters of support have been received.

#### **Purpose**

This report is to provide information for the consideration of a fence height exemption application.

#### **Background - Analysis and Options**

The property owner of 166 Westmount Blvd. has applied for a fence height exemption as provided for in the City of Vaughan Fence By-law 80-90, for the property located at 166 Westmount Blvd.

The Applicant is making application to permit an existing rear yard fence.

The By-law permits a fence height of 6 feet in rear yards measured from finished grade. The Applicant has installed a wood fence on the east side varying in height from 6.3 feet to 7.1 feet, on the west side varying in height from 6.5 feet to 7.10 feet and across the rear, being the north side varying in height from 6.5 feet to 7.10 feet.

The area was inspected by Enforcement staff and there are no fences similar in nature to that which the Applicant seeks exemption in the immediate area that are similar in height and design to the Applicant's.

There are no site plans registered for this property.

The fence height does not pose a potential sight line issue.

The details outlined above support the approval of a fence height exemption for this location. Although there was a letter of objection received from the residents of 115 Renaissance, the impact to this residence is minimal due to the fence being obscured by a thick treed area.

This application is outside of the parameters of the delegated authority recently passed by Council.

There is no past precedence approved by Council for a fence of this height with this type of material/design in the immediate area.

#### **Relationship to Vaughan Vision 2007**

This report is in keeping with the Vaughan Vision as it speaks to Service Delivery and Community Safety.

**Regional Implications**

N/A

**Conclusion**

Fence Height Exemption requests brought before Council should be granted or denied based on the potential impact to neighbour relations, comparables in the specific area, site plan requirements, history, and safety impacts. The facts in this case does not support the approval of a fence height exemption for this location.

**Attachments**

- 1) Map of area
- 2) Site Plan
- 3) Photos of existing fence
- 4) 1 Letter of Objection
- 5) 2 Letters of Support

**Report prepared by:**

Janice Heron  
Office Coordinator, Enforcement Services

Respectfully submitted,

Janice Atwood-Petkovski  
Commissioner of Legal & Administrative Services  
and City Solicitor

Tony Thompson  
Director, Enforcement Services

# ATTACHMENT No. 1



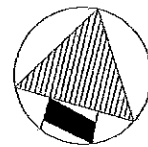
## FENCE HEIGHT EXEMPTION 166 WESTMOUNT BLVD.

LOCATION: Part of Lot 33,  
Concession 2

### LEGEND



SUBJECT PROPERTY



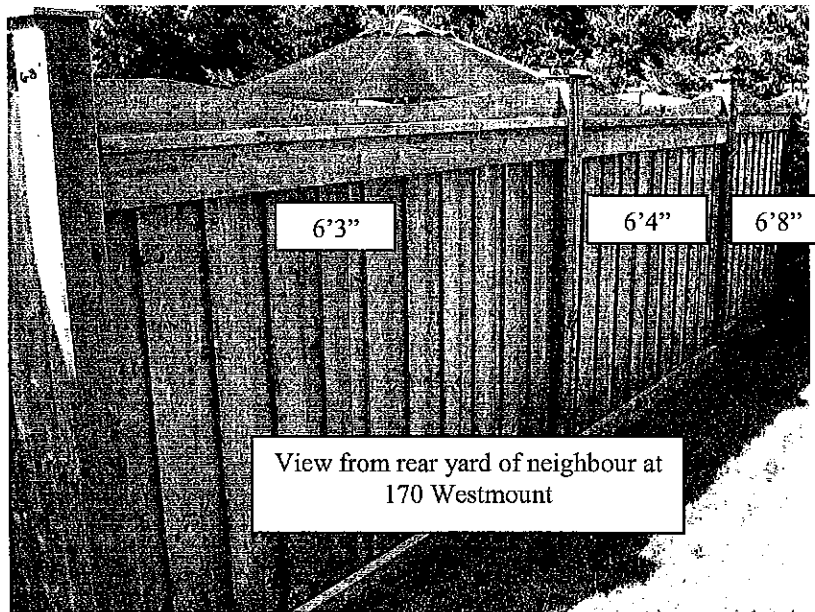
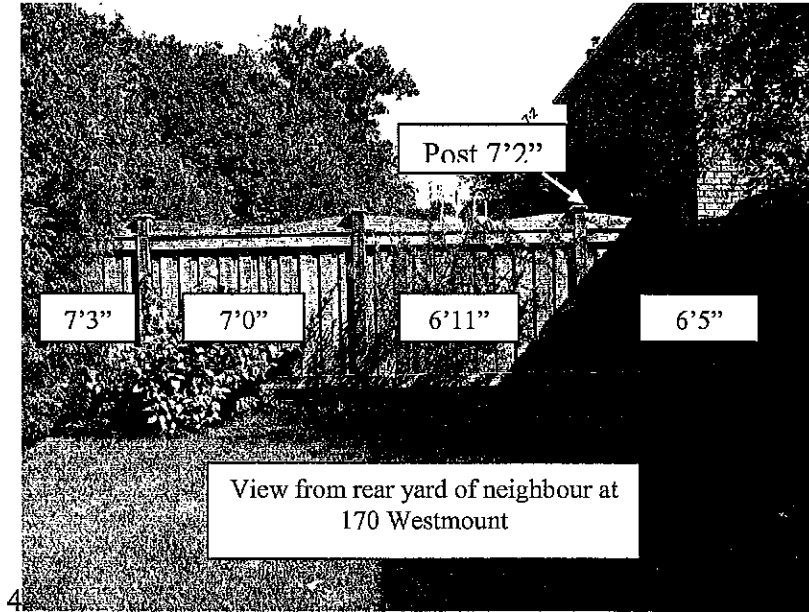
NOT TO SCALE

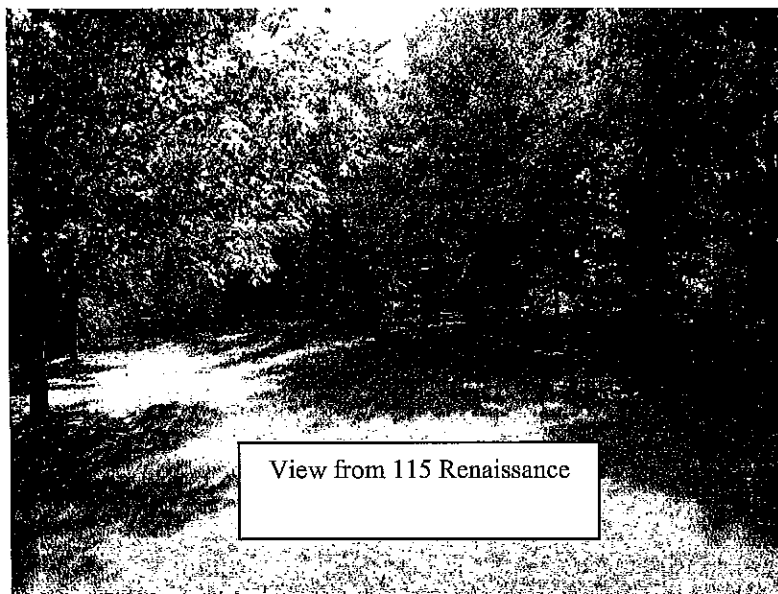
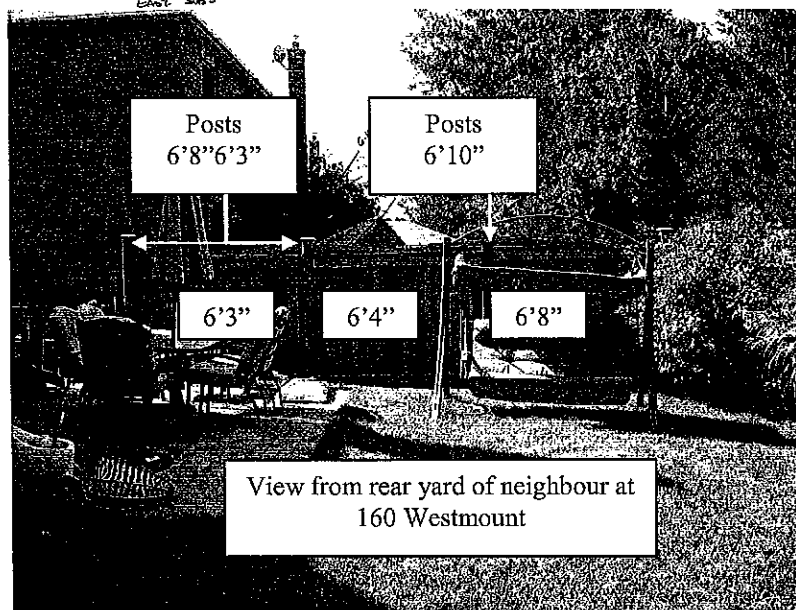
Drawing name: C:\Engineering Services\Design Services\Attachments\166 Westmount Blvd.dwg

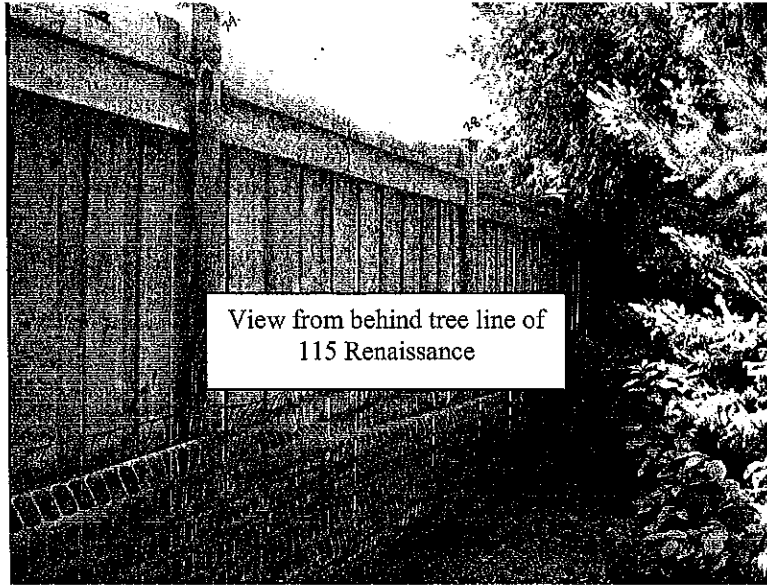


# ATTACHMENT No. 3

166 Westmount Blvd.  
Fence Height Exemption







View from behind tree line of  
115 Renaissance

# ATTACHMENT No. 4

September 17, 2008

To: Mr. Tony Thompson  
Director, Enforcement Services  
City of Vaughan

From: Barry & Felicia Lash

Re: Request For Fence Height Exemption, 166 Westmount Blvd.  
October 6, 2008 hearing by Committee of the Whole

Dear Mr. Thompson:

We are Barry and Felicia Lash, the homeowners of 115 Renaissance Court. We are directly affected by the rear fence installed by the property owners at 166 Westmount Blvd. in the spring of 2007. It was our intention to attend the Committee of the Whole hearing regarding this issue but, as the meeting is being held in the middle of the day, we are unable to do so due to work commitments. We very respectfully request that the property owners of 166 Westmount Blvd. be required to restore the fence in such a way that it meets the guidelines set out in the City of Vaughan By-laws pertaining to fence installation. We also thank you, in advance, for reading this letter into the records in its entirety. As well, as we provide a summary of the sequence of events which has ultimately led to this hearing, any comments that may appear to be of a somewhat personal nature are not made with that intent. But, in a case such as this where property owners are trying to get an exemption after the fact, we feel that their actions speak volumes and are an important addition to the black and white facts. We will try to be as brief as possible in our explanation.

Following a bad windstorm in the spring of 2007, we noticed that some of the fences in our neighbourhood had suffered some damage, including the east side of the fence in question. We (Barry, specifically) examined our rear fence and found it was fine. Several weeks later, Felicia accompanied their two Jack Russell Terriers into the backyard only to discover that the rear fence had been ripped down. Our backyard is a tree preservation lot and, because of the trees, the missing fence was not noticed until she was walking in the yard with their dogs and they started running towards the 45' opening. Luckily, the fence installer was in the backyard at the time and he assisted with the dogs. We did not receive any written or verbal notice at any time from the property owners regarding their intentions to replace the existing fence and, as the fence is on the common property line, it should not have been removed without our consent. There is hardly a time when someone is not at our home in the evening. We would have been easy to contact and open to discussing any concerns and plans they had for the existing fence. Once the dogs were safe, Felicia spoke to the fence installer regarding the work he was doing and was assured by him that the new fence would be virtually the same as the one that was removed. Throughout the week or so process of building the fence, we kept in constant communication with the fence installer, asking all the right questions, and keeping a watchful eye on the progress. We chose this over speaking to the property owners as they demonstrated that they could not be trusted when they removed the fence without notice, consent and most importantly without any regard for our pets who could have met




a tragic fate if they had escaped onto Westmount Blvd. Everything seemed to be going well, the only change being thicker fence posts and this was fine. But, when the fence boards went up, that's when we discovered that, in fact, the fence was much different than the one that had existed before and we definitely had some concerns. We contacted the City of Vaughan By-Law Enforcement Services Department shortly after the fence was installed to investigate the matter further.

Please note these facts:

- \*The current owners of 166 Westmount Blvd. have resided there for many years.
- \*The fence which was ripped down was installed by the previous homeowners around the same time the swimming pool was installed. The current owners purchased the property with the pool and 6' fence already existing and lived with that fence for many years.
- \*Our property at 115 Renaissance Court is a fully fenced lot. It is a tree preservation lot but is private property, just as all the other homes on Renaissance Court and Westmount Blvd. There is absolutely no legal public access.
- \*The security for the swimming pool is not at issue. A pool requires a 4' fence so the standard 6' fence which already existed was more than enough for safety purposes. At 6', any individual who wants to gain access to the pool from outside the property at 166 Westmount Blvd. would have to actually climb the fence. If they are so determined to gain access, a fence that is a couple of feet higher would not be a deterrent.
- \*The new rear fence which the current property owners of 166 Westmount Blvd. chose to install is significantly higher than the 6' permitted. It is 6.11' only at the point where it is attached to the rest of the existing east rear yard fence. The rear fence they installed is a relatively consistent 7.9'. The new fence was built on the property line as before but the boards are a minimum of 1' off the ground and their already existing retaining wall/planter box was used to "fill in" the missing space where the boards should have been. The boards are not attached to the retaining wall/planter box and there is a 3" gap in between, large enough for animals to become stuck. Also, because of the way the fence was built and that they only completed it on one side, our side was left with large gaps which our dogs have escaped through into the yard on our west side. We have had to temporarily attach a plastic construction fence along this 45' length of the rear fence and block off the gaps as well in order to keep our pets safe until this matter is resolved.
- \*In addition to it being built against code, the new fence is unfinished on our side and is totally different in design than any other portion of our fence which has existed for many years. Perhaps this explains why the property owner did not speak to us before proceeding with this fence. Perhaps they knew that some, if not all, of what they were doing was wrong.

Thank you, once again, for your time in listening to our position on this fence. It is very much appreciated. We believe that it is important for all residents to abide by the By-laws in their community. And, perhaps just as important, homeowners must realize that they have a certain moral responsibility to their neighbours. They cannot blatantly disregard the rules. An attitude of doing it first and getting around it later is simply not acceptable. That being said, people do make mistakes. That is totally understandable. However, accountability is still necessary. It is important to make it right.

Sincerely yours,

  
Felicia and Barry Lash

**MICHAEL CHERNICK / CAROLE LINDEN**

166 Westmount Blvd. Thornhill, Ontario L4J 7W2 Home: (905) 709-3040 Bus: (416) 243-1300

---

City of Vaughan

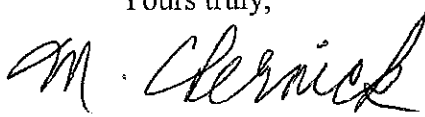

We are writing this letter in reference to the fence height exemption we are seeking for 166 Westmount Blvd. Our property has a swimming pool in the backyard and a fence is required. The land on either side of our property slopes downwards towards the rear of the properties while our backyard is level (required because of the swimming pool), causing up to a two foot differential in height between our property and the property of our neighbors.

The neighbor on Renaissance Ct. whose property is at the rear of ours has their house set back quite far from our fence, seeing as they are on a double lot. In addition, there is a protected Green Belt (at least 20-30 feet wide) between our house and our Renaissance Ct. neighbor, which makes it difficult if not impossible to see our fence. The neighbors on either side of our property, with whom we share the fence, don't have a problem with the current fence height, even though it affects them to a much greater extent than the Renaissance Ct. neighbor. (2 letters attached)

If the fence were to be lowered to six feet in height using the neighbor's property as the base, the fence on our side would be four feet high, affording our adjacent neighbors and us little privacy.

We hope you take the above facts into consideration when making your determination for a fence height exemption.

Yours truly,

Michael Chernick

Carole Linden

**RECEIVED**

SEP 22 2008  
CITY OF VAUGHAN  
ENFORCEMENT  
SERVICES

# ATTACHMENT No. 6

I am the owner of the property at 160 Westmount Blvd. My property is adjacent to 166 Westmount Blvd. I have been made aware that there is a request for a fence height exemption. This letter is to inform you that I have no objection to the current fence height.

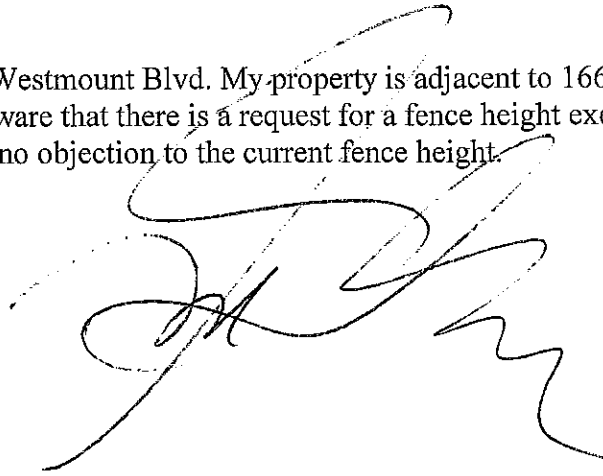
Yours truly,

A handwritten signature in cursive script that reads "Stanley Udashkin".

STANLEY UDASHKIN

I am the owner of the property at 170 Westmount Blvd. My property is adjacent to 166 Westmount Blvd. I have been made aware that there is a request for a fence height exemption. This letter is to inform you that I have no objection to the current fence height.

Yours truly,

A handwritten signature in black ink, appearing to be 'J. H. Smith', written over a faint, large watermark of the same signature.