

## **COMMITTEE OF THE WHOLE - FEBRUARY 10, 2009**

### **RESPONSE TO DEPUTATION – MS. VICKI KOMAR-APREDA REQUEST FOR REIMBURSEMENT OF COMMITTEE OF ADJUSTMENT FEES, OMB APPEAL FEE, ARBOUR CONSTRUCTION AND DEMOLITION COSTS**

#### **Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor, and the Director of Enforcement Services, recommend:

1. That Ms. Komar-Apreda's request for reimbursement of fees and other costs be refused.

#### **Economic Impact**

Not applicable.

#### **Communications Plan**

Not applicable.

#### **Purpose**

To respond to Council's direction for a report.

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

Council at its meeting of December 8, 2008 adopted the following recommendation:

*"That this matter be referred back to staff for further investigation and that a further report be provided to the Committee of the Whole meeting of February 10, 2009".*

Ms. Vicki Komar-Apreda first appeared before Committee of the Whole on June 3, 2008 to request a refund of fees paid to the City of Vaughan relating to an arbour she had built on her property at 357 Cunningham Drive in Maple.

In October 2007, the City received a complaint about an arbour. Upon investigation, it was determined that the arbour was constructed with an interior side yard setback of 0 m, whereas, based on its height of 3.13 m, the Zoning By-law requires a minimum interior side yard setback of 3.13 m.

Ms. Komar-Apreda advised that prior to building the arbour, she sought information and clarification from the Enforcement Services Department as to whether any by-law applied to the construction of arbours. She claims that she was told that no such by-law existed and that it was not until after the arbour was erected that she was advised by the Building Standards Department that the arbour did not comply with Zoning By-law 1-88.

As a result of the complaint and inspection, a Notice of Violation of the Zoning By-law was sent to the property owners in January 2008 advising that the structure be removed or that an application to the Committee of Adjustment be made. As a result, the owners applied to the Committee of Adjustment for a minor variance. At the Committee of Adjustment meeting on March 27, 2008, the variance was refused.

On April 16, 2008, Ms. Komar-Apreda filed an appeal of the Committee of Adjustment's decision to the Ontario Municipal Board.

On June 3, 2008, the deputant was requested to submit a detailed request for reimbursement in writing to the City Clerk. At its meeting on June 11, 2008, Council referred the matter to staff for review and a report to be provided to a future Committee of the Whole.

Ms. Komar-Apreda submitted a formal request for refund of fees in a letter to the City Clerk dated June 9, 2008. She requested the following:

1. The variance (Committee of Adjustment) and appeal (OMB) fees:

$$\$635.00 + \$275.00 = \$910.00$$

2. The cost of the arbour once removal confirmed:

$$\$2,400.00 + \text{GST } (\$144.00) = \$2,544.00$$

3. The cost of "removal" of the arbour: TBA

4. The cost of any plantings lost as a result of the removal of the arbour: TBA

The Ontario Municipal Board heard Ms. Komar-Apreda's appeal on July 3, 2008. Pursuant to Council direction, staff attended in support of the Committee of Adjustment's refusal of the variance. During the hearing, the appellant amended her application and agreed to reduce the height of the arbour to 2.5 m and remove the lattice panels along the side of the arbour facing the adjacent property owner. Based on this, the OMB allowed the appeal and permitted the minor variance subject to conditions as per the amendment.

However, following the hearing, Ms. Komar-Apreda wrote to the OMB to advise that she could not meet the conditions agreed to at the hearing. She requested that the Board permit the arbour to remain at its originally constructed height, with the existing lattice panels to be replaced with "much more open constructed lattice". The Board did not acknowledge this request in its formal Decision which was issued on August 5, 2008.

Enforcement Services inspected the property in October 2008 and confirmed that the arbour had been removed in its entirety.

Pursuant to the June 3, 2008 deputation, the Director of Enforcement Services undertook a review of the circumstances surrounding the deputant's contact with that department. During this review staff were interviewed and procedures reviewed.

The deputant had contact with two administrative staff members several times over the summer months in 2007. The original meeting was on June 22, 2007 where she filed a complaint against her neighbour regarding garbage on the property and a side yard shed. The deputant attended to the Enforcement Services offices to follow up on this complaint on July 18, 2007. At this time, she inquired about placing trees down the side of her property line. At this time two clerical staff members advised her that there was no bylaw restricting the placement or height of trees on or near the property line. Staff have confirmed that at no time on this visit was an arbour or structure of any kind discussed.

Subsequent to this visit, the deputant telephoned Enforcement Services and repeated her request for restrictions on trees on the property line. She was provided the same answer.

Several days later, the deputant appeared at the Enforcement Services counter to inquire about a trellis and arbor. Staff directed Ms. Komar-Apreda to the Building Department to get a specific answer as they were unsure of the restrictions. At no time did Enforcement Services staff provide Ms. Komar-Apreda with permissions to construct the arbour or similar structure.

Following the deputation on December 3, 2008, the Director of Enforcement Services re-interviewed the staff members to confirm their actions. It was confirmed that Enforcement Services front counter staff will attempt to answer matters regarding the enforcement of by-laws, however, they will consistently refer staff to the appropriate departments for matters outside the departmental responsibilities, including such things as Building Permits, set backs, grading, burning permits, etc. This is following internal procedures in place to help guide staff in their duties.

It appears that Enforcement Services staff actions are being misconstrued by Ms. Komar-Apreda. There appears to be no basis to warrant the reimbursement of fees to Ms. Komar-Apreda.

### **Relationship to Vaughan Vision 2020/Strategic Plan**

This report is consistent with the priorities previously set by Council.

### **Regional Implications**

Not applicable.

### **Conclusion**

Based on extensive investigation, there is no evidence to suggest that staff misadvised Ms. Komar-Apreda and there does not appear to be any basis to warrant reimbursement by the City for Ms. Komar-Apreda's minor variance application fee, Ontario Municipal Board fee, or arbour construction/demolition costs.

### **Attachments**

None

### **Report prepared by:**

Tony Thompson  
Director of Enforcement Services

Respectfully submitted,

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

Tony Thompson  
Director of Enforcement Services