

## **COMMITTEE OF THE WHOLE (WORKING SESSION) – May 17, 2010**

### **PROPERTY STANDARDS BY-LAW – All Wards**

#### **Recommendation**

The Commissioner of Legal and Administrative Services and City Solicitor, in conjunction with the Director of Enforcement Services, and in consultation with the Cultural Heritage Co-ordinator, recommends:

1. That Property Standards By-law 409-99 be repealed and a new Property Standards By-law be enacted.

#### **Economic Impact**

Not applicable.

#### **Purpose**

This report is to introduce a revised and updated Property Standards By-law.

#### **Background**

As a result of a report published by the Provincial Government in the 1960's, legislation was passed which permitted municipalities to pass by-law setting out minimum standards and maintenance and occupancy for residential properties. Over the years, by-laws were expanded to include standards of maintenance for all properties within a municipality not just residential.

The current Property Standards By-law was enacted in 1999. Since that time the City of Vaughan has grown with respect to its residential and business population and continues to prosper with new residential areas and business centres.

With increased density in City of Vaughan neighbourhoods, the standards of maintenance people have come to expect in their communities have also increased.

Issues that raise concerns among residents, visitors and business operators are not being addressed in the current Property Standards By-law thereby affecting the level of service people expect.

As a result of the large amount of re-organization, clarifications, and new sections added to the By-law it would be less confusing to re-draft the By-law than to provide a long series of amendments.

The following items outline the more significant proposed changes to the By-law.

#### **Multi-Residential Properties**

Subsections that deal with multi-residential properties are proposed to be modified. This is suggested as unit owners and tenants have other avenues to pursue their concerns or complaints. These include the Landlord Tenant Tribunal, Condominium Corporations, or Property Management Companies.

Some complaints involving multi-residential properties have in the past, originated from tenants who have been informed by the Landlord Tenant Tribunal the documentation from the City would help their case. The City needs to ensure its resources are focussed, in this regard, where the issue is ensuring basic standards of living conditions.

Enforcement Services are currently called to deal with minor issues such as “burnt out bulbs; blocked toilets; and a battery not working in CO Detector. These residents expect the City of Vaughan to deal with these issues with the Property Management Company. In most cases this is a civil matter between the Property Management Company and the resident. Also, in our By-law there is a provision which states that the occupants are responsible for the dwelling – which means the owners can remediate the problem and seek compensation through other means.

City staff resources should not be deployed for these types of issues. As such, the Bylaw will be modified to provide service for those deficiencies that are not trivial in nature. These would include matters that deal with issues in the common areas of these buildings.

#### Building Code Requirements

The new By-law is proposing to remove from it all specific Building Code requirements which principally involve measurements. In the past, any amendments that were made to the Ontario Building Code were not made in the Bylaw and therefore the provisions contained in the By-law were incorrect.

Removing specific provisions eliminates any amendments that would have to put forth with should the Code change. The proposed By-law will make reference to the requirements of the Building Code, so that in the event of amendments to that statute, the By-law would not require an amendment.

#### Definitions

The proposed list of definitions has been expanded from fifty-five (55) to ninety-eight (98) defined terms. The proposed definitions have been added due to problems that have arisen with the interpretation of certain sections of the By-law.

Often, a word used in the By-law does not have a definition set out in the By-law which in the past has resulted in successful challenges both in the courts and at the Property Standards Appeal Committee.

Other minor changes have been made to existing definitions to make them clearer or to reflect changes made to the Ontario Building Code.

#### The Property Standards Officer

The proposed amendment to this section is the insertion of an additional clause to allow other persons other than City of Vaughan employees to assist in the Enforcement of this By-law. This section will appoint these other bodies as agents in the By-law. Some examples may include:

Provincial Ministries (Ministry of the Environment, Ministry of Labour)  
Regional Bodies (York Regional Health Services)

An officer may from time to time, designate other persons to act under the Officer's instruction in the administration or enforcement of this By-law.

#### Property Standards Committee

The proposed changes to this section are to include additional items that provide clarity for the Committee.

It is proposed that any member of the Committee may administer oaths.

Further, a quorum for transacting the Committee's Business is defined as the majority of the Committee.

Also, there is a proposal that the secretary shall keep on file minutes and records of all application and decisions thereon and of all other official business of the Committee under Section 74 of the Municipal Act R.S.O 1990 c.H 45 as amended.

### Standards of Occupancy

This section outlines the general duties of owners of properties within the City of Vaughan. The only change proposed in this section is the deletion of the provision dealing with Multiple Dwellings.

### General Standards for all Properties

In addition to the amendments and expanded definitions, new sub sections were added to accommodate the nature of complaints Enforcement Services receive that under By-law 409-99 cannot be dealt with. In other cases existing sub sections have been expanded and/or divided either for clarity purposes or to include aspects of complaints not covered in By-law 409-99.

The list below captures the areas of the amendments:

- Maintenance of Yards – expansion
- Trees – removal of section, civil matter
- Plantings – expansion and clarification
- Flags – new
- Signs – expansion and clarification
- Lighting – expansion and clarification
- Swimming pools – new provision
- Fences and Retaining Walls – modification and clarification
- Garbage Bags and Receptacles – expansion
- Catch basins – expansion
- Sewage Discharge and Drainage – expansion
- Grading and Paving of Yards – partial removal for civil matters. Safety issues remain
- Roofs – expansion
- Stairs, Handrails and Guards – expansion
- Structural Adequacy, Electrical, HVAC and Plumbing - revision
- Mould – new provision

### Standards Specific to Residential Properties

As indicated above there requirements to create new sub sections to accommodate the nature of complaints Enforcement Services receive that under By-law 409-99 cannot be dealt with. In other cases existing sub sections have been expanded and/or divided either for clarity purposes or to include aspects of complaints not covered in By-law 409-99.

The list below captures the areas of the amendments:

- Doors – new section
- Garage Doors – new section
- Floors – new section
- Water – modification, clarification

### Standards Specific to Non Residential Properties

As indicated above there requirements to create new sub sections to accommodate the nature of complaints Enforcement Services receive that under By-law 409-99 cannot be dealt with.

The list below captures the areas of the amendments:

- Grading, Paving and Surface Conditions – expansion, safety
- Storage Areas – addition

### Standards for Buildings/Structures Damaged by Fire or Natural Disaster

This section has been added to provide for greater security of a property damaged by the above and to protect the public from injury and adjacent properties from damage.

### Standards for Heritage Properties

In consultation with Culture and Heritage a need was identified to add within the new proposed Property Standards By-law a supplementary section for the maintenance and care of Heritage lands and buildings.

In April 2005 Bill 60 of the Ontario Heritage Act was passed including provisions which provide municipalities with new powers to make a By-law prescribing minimum standards of maintenance of Heritage Properties. As a result of authority granted in the Ontario Heritage Act and the lack of maintenance and care shown by some owners of Heritage Properties, a stricter standard of maintenance has been proposed in the new Property Standards By-law. These new prescribed standards should aid the City of Vaughan in ensuring heritage lands and buildings are maintained in keeping with their significant historical value.

The *Ontario Heritage Act, R.S.O 1990, Chapter 0.18*, grants municipalities the authority to designate individual properties and districts as being of cultural heritage value or interest. This designated status allows municipalities to protect and preserve built heritage resources and provides the legislative tools to manage change in a way that enhances the unique heritage character of the municipality. The City of Vaughan currently has four Heritage Conservation Districts designated under Part V of the Ontario Heritage Act (OHA). They include the Heritage

Districts of Thornhill, Kleinburg-Nashville, Woodbridge and Maple, totaling 878 designated properties. Additionally, the City has 49 properties individually designated under Part IV of the Ontario Heritage Act.

Under Section 35.3, 45.1 of the OHA the Council of a municipality may, by by-law passed under Section 15.1 of the *Building Code Act, 1992*, prescribe minimum standards for the maintenance of the heritage attributes of any property situated in a heritage conservation district or designated individually under Part IV of the OHA. Designated properties are required to comply with these minimum standards or else be repaired and maintained to conform to these standards.

The proposed Supplementary Standards for Heritage Properties will help to ensure the long term protection of cultural heritage resources within the City of Vaughan by enforcing sympathetic maintenance and repair of significant heritage attributes, by preventing undue exposure of heritage attributes to damaging elements and by circumventing the neglect of vacant heritage properties.

It should be noted that continuous occupation provides the best protection against the rapid deterioration of heritage attributes that is often the result of neglect. Although Cultural Services recognizes that occupancy cannot be enforced it should be made clear that we strongly discourage the vacancy of any heritage building.

#### Heritage Definitions

“Heritage Building” means a building that is designated under the Ontario Heritage Act; or is certified to be of significant architectural or historical value by a recognized, non-profit public organization whose primary object is the preservation of structures of architectural or historical significance and the certification has been accepted by the Chief Building Official.

“Heritage Attributes” means the attributes or features of property, buildings or structures that contribute to the property’s cultural Heritage value or interest that are defined or described or that can be reasonably inferred:

- a. in a by-law designating a property passed under Section 29 of the Ontario heritage Act and identified as heritage attributes, values, reason for designation, or otherwise;
- b. in a Minister’s Order made under Section 34.5 of the Ontario Heritage Act and identified as heritage attributes, reason for designation or otherwise;
- c. in a by-law designating a heritage conservation district passed under Section 41 of the Ontario Heritage Act and identified as heritage attributes, values, reason for designation or otherwise;
- d. in the supporting documentation required for a By-law designating a heritage conservation district, including but not limited to a heritage conservation district plan, assessment or inventory, and identified as heritage attributes, reasons for designation or otherwise.

#### Minimum Standards - Heritage

In addition to the minimum standards for the maintenance and occupancy of property in the City of Vaughan as set out in the Property Standards By-law, it is further proposed that the owner of a Heritage Property shall maintain the property to preserve and protect the heritage attributes so as to maintain the heritage character, visual and structural integrity of the building or structure and the heritage values and attributes.

### Repair of Heritage Attributes

This proposal addresses the repair of heritage attributes.

Where a heritage property can be repaired, the heritage attribute shall not be replaced and shall be repaired in a manner that minimizes damage to the heritage values and attributes while maintaining the design, colour, texture, grain or other distinctive features of the heritage attributes. The expectation is that the repairs would use the same types of materials as the original and in keeping with the design, colour, texture, grain and any other distinctive features of the original.

In instances where the same types of materials as the original are no longer available, using alternative materials that replicate the design, colour, texture, grain or other distinctive features and appearance of the original materials would be permitted.

### Replacement of Heritage Attributes

Where a heritage attribute cannot be repaired, the heritage attribute must be replaced using the same types of materials as the original, including materials that replicate the design, colour, texture, grain or other distinctive features and appearance of the original material, and in a manner that minimizes damage to the heritage values and attributes of the property.

### Clearing and Leveling of Heritage Properties

No building or structure on a heritage property may be altered or cleared, including but not limited to removed, demolished or relocated except in accordance with the Ontario Heritage Act.

### Vacant and Damaged Designated Heritage Properties

Where a heritage property remains vacant for a period of 90 days or more, the owner shall ensure that appropriate utilities serving the building are connected as required in order to provide, maintain and monitor proper heating and ventilation to prevent damage to the heritage attributes caused by environmental conditions.

Also, the owner of the vacant heritage property shall protect the building and property against the risk of fire, storm, neglect, intentional damage or damage by other causes by effectively preventing the entrance to it all of all animals and unauthorized persons and by closing and securing openings to the building with boarding.

The owner shall post signs prohibiting the trespassing onto lands and prohibiting removal of materials.

As indicated above, the volume of amendments preclude the existing bylaw from being amended. A new by-law as outlined above will provide clear guidelines on property standards and maintenance to the residents and staff of the City of Vaughan.

The proposed amendments do not change the penalty sections or the time frames for compliance. These provisions are set by the Ontario Building Code.

### **Relationship to the Vaughan Vision**

This report is in keeping with the Vaughan Vision with service excellence and community safety.

The necessary resources have been approved and allocated.

**Regional Implications**

Not applicable.

**Conclusion**

The introduction of a new Property Standards By-law will provide for more stringent controls to allow residents and business operators a more enjoyable living and working experience and to increase pride for one's property and respect for the neighbourhoods they live in, while providing additional tools for enforcement to deal with problems.

**Attachments**

None

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