

THE REGIONAL MUNICIPALITY OF YORK
POLICE SERVICES BOARD

REPORT OF THE CHIEF OF POLICE

23 APRIL 2008

Municipal Fortification Bylaw

RECOMMENDATION

1. That the Board endorse efforts by York Regional Police and York Region staff to encourage all area municipalities within York Region to adopt a uniform fortification bylaw, and to establish best practices for the application of such a bylaw across the Region.

SYNOPSIS

The purpose of this report is to seek the Board's endorsement for a process to encourage all area municipalities to adopt a uniform Fortification Bylaw, and to establish best practices for the application of such a bylaw. The enactment of a uniform Fortification Bylaw across York Region would assist York Regional Police with the effective management of outlaw motorcycle gang members and facilities in the interest of maintaining public safety and security.

FINANCIAL IMPLICATIONS

Not applicable.

BACKGROUND

The *Municipal Act* was amended in 2001 to enable those municipalities who enforce the *Building Code Act* to pass bylaws to regulate the fortification of buildings and land. In York Region, the *Building Code* is the responsibility of the area municipalities.

In 2004, Regional Council endorsed an initiative to encourage all area municipalities within the Region to enact a uniform fortification bylaw. To date, only Newmarket and Vaughan have enacted such bylaws. Through the efforts of co-ordinated law enforcement in the City of Vaughan, the Hell's Angels outlaw motorcycle gang vacated their clubhouse in Vaughan. Unfortunately, they relocated elsewhere within the Region where there is no fortification bylaw in place.

Several municipalities across Ontario have enacted bylaws similar to those in Newmarket and Vaughan, including the municipality of Chatham-Kent where the bylaw was the subject of a recent court challenge by the owner of an outlaw motorcycle gang clubhouse. The applicant challenged the bylaw as being contrary to the *Constitution* and the *Charter of Rights*, in that the municipality had exceeded its jurisdiction by enacting 'criminal' law and that the bylaw infringed on his Charter rights. The Ontario Court of Justice denied the application to quash the bylaw, and upheld the bylaw as valid municipal law. Consequently, the Chatham-Kent bylaw serves as a precedent of best practices in the efforts of municipalities to protect the safety of residents and emergency personnel by prohibiting excessive fortification of such buildings.

Fortification bylaws prohibit excessive fortification or protection of land and buildings. Such bylaws are intended to address the safety of emergency personnel, including fire and police, as well as the occupants of buildings and nearby properties. Examples of excessive fortification include steel sheeting, electrified fencing and hidden traps. Presently, York Region is home to two Hell's Angels Outlaw Motorcycle Gang chapters both of which have clubhouses in the Region.

Fortification bylaws do not apply to reasonable fortifications and protection provided by commercially marketed household security devices. Financial institutions and police services are exempt from the application of such bylaws. Further exemptions are available for legitimate protective devices and structures upon approval by the Chief Building Official.

York Regional Police are willing to work with area municipalities on enforcement issues and will assist with reviewing applications for exemptions. Our involvement at this level will assist us with monitoring and controlling activities undertaken by members of outlaw motorcycle gangs which often have criminal underpinnings that negatively impact communities and quality of life expectations.

To further facilitate the ongoing work in relation to outlaw motorcycle gangs, I would ask that the Board and Regional Council for their support and ask every municipal Council in the Region to adopt a uniform fortification bylaw. A consistent approach to dealing with this issue will foster effective partnerships between the police and area municipalities that will support enforcement objectives and community safety.

Armand P. La Barge, O.O.M.
Chief of Police

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