



TOWN OF AURORA
ADDITIONAL ITEMS
FOR COUNCIL MEETING

Tuesday, December 16, 2014
7 p.m.
Council Chambers

- **Item 10 – Memorandum from the Director of Building and By-law Services**
Re: 14476 Yonge Street – Prosecution Update

RECOMMENDED:

THAT the memorandum regarding 14476 Yonge Street – Prosecution Update be received for information.

- **Notice of Motion (b) Councillor Mrakas**
Re: Sign By-law Enforcement

(Please note that this Notice of Motion was provided by Councillor Mrakas in accordance with the Procedural By-law, but was not included on the Council agenda as there was a delay in receipt by the Clerk's Office due to a technical error with email.)



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Town of Aurora
Building and Bylaw Services

MEMORANDUM

DATE: December 16, 2014

TO: Mayor and Members of Council

FROM: Techa van Leeuwen, Director of Building and Bylaw Services

RE: 14476 Yonge Street – Prosecution Update

RECOMMENDATIONS

THAT Council receive this memorandum for information.

BACKGROUND

In June of 2013 at the property located at 14476 Yonge Street, the Building Division responded to a complaint of tree clearing and illegal dumping of fill. The inspection revealed substantial site alterations and subsequently Notices of Violations were issued for contravention of the Town's Fill By-law No. 4751-05.P and the Town's Zoning By-law No. 2213-78 for site alteration on the Oak Ridges Moraine as well as a building code violation for the erection of a sign without permit. The tree cutting was referred to York Region as jurisdiction for woodlands and woodlots falls under the Region's Forest Conservation By-law.

In August of 2013 the Town of Aurora laid charges against three Corporations and two individuals on for various offences related to the illegal activity.

COMMENTS

On Friday December 12, 2014, a sentencing hearing proceeded in connection with the guilty pleas registered for the illegal activities involving the placement of fill, site alteration on the Oak Ridges Moraine and the illegal erection of a sign without the proper approvals and permits.

The attached memo from Hans J. Saamen, Senior Counsel, Prosecution, Court Services, Regional Municipality of York outlines the various charges and fines imposed by the Courts.

Staff considers the imposition of the sentencing to be a successful enforcement outcome. Achieving this outcome required collaboration and coordination of effort between York Region Environmental Services Department, York Region Court Services and Town of Aurora Building and Bylaw Services. This was a difficult prosecution inasmuch as it covered multiple bylaws and involved both the upper tier and lower tier municipal governments.

The site has been remediated under the supervision of a Professional Engineer, the illegal fill has been removed to native soils and the site soil testing confirms compliance with Ministry of Environment guidelines. York Region Environment Services Department continues to work toward the reforestation of the property.

ATTACHMENTS

Memorandum from Hans J. Saamen, Senior Counsel, Prosecutions



MEMORANDUM

TO: Dale Robson, Town of Aurora

FROM: Hans J. Saamen, Senior Counsel, Prosecutions

RE: **14476 Yonge St., Aurora**

This memo summarizes the various charges and fines that were imposed against 1605772 Ontario Ltd. and Robert Strmota in connection with a Building Code charge and charges under the Town of Aurora's Zoning By-law and Fill By-law. Fines on three separate Informations totaling \$10,000.00 plus \$30.00 in costs and \$1,875.00 in victim fine surcharges (this is payable to the Province) were imposed for charges laid by the Town of Aurora's staff. In addition, the violations were rectified.

1. Building Code Act charge – Information Number 4960 – 999 - 13 - 2184 – On March 28, 2014, a guilty plea to the charge of Failing to Comply with an Order dated July 16, 2013 was entered by 1605772 Ontario Ltd.. The Order required removal of a large real estate sign that was erected without a permit. Compliance with the Order had been achieved prior to the date the guilty plea was entered (the sign was removed). A fine of \$1,000.00 plus costs and Victim Fine Surcharge (“VFS”) of \$125.00 was imposed at that time. The fine was paid on April 28, 2014. A separate charge against Robert Strmota on Information number 4960 – 999 - 13 – 2185 was withdrawn as part of the plea resolution.
2. Zoning By-law charge - Information Number 4960 – 999 - 13 – 2186 – On September 16, 2014, 1605772 Ontario Limited and Robert Strmota entered pleas of guilty to the charge of altering or developing the land contrary to the Town of Aurora Zoning By-law 2213-78 s. 34.1.4(i), and therefore contrary to s. 67 of the Planning Act. Fines were imposed of \$2,500.00 against the company and \$2,500 against Robert Strmota. \$5.00 costs per summons served and a VFS of \$625.00 against each were added administratively. The defendants were given 9 months time to pay the fines. The charges against the remaining defendants were withdrawn as part of the plea resolution.
3. Fill By-law Charges - Information Number 4960 – 999 – 13 - 2187 (it contains three counts under the Town of Aurora Fill By-law 4751-05.P) – On September 16, 2014, 1605772 Ontario Limited and Robert Strmota (“the defendants) entered pleas of guilty to all three charges. Sentencing was adjourned to November 20th, and further adjourned to December 12th to allow the defendants time to implement an agreement that the fill that

was brought onto the site was to be removed from the site, and soil testing and a report confirming that the soil was not contaminated was to be completed. The soil was removed and the soil test results were received and were satisfactory to the Town's staff prior to December 12th. The property has been restored to the native soil according to the soil report from Soil Probe dated December 9, 2014. On December 12th, the court imposed fines of \$1,000.00 against 1605772 Ontario Limited on each of counts 1 and 2 (\$2,000 in total) and \$1,000 against Robert Strmota on each of counts 1 and 2 (\$2,000 in total). In addition, \$5.00 costs per summons served and a VFS of \$125.00 on each count (\$250.00 VFS in total for 1605772 Ontario Limited and \$250.00 VFS in total for Robert Strmota) are applied administratively. The defendants were given 6 months time to pay the fines. Sentencing on count three was stayed since the factual allegation of dumping fill under the Fill By-law is essentially the same in counts 1 and 3, and therefore the principle in R v Kienapple [1975] 1 SCR 729 would apply. The charges against the remaining defendants were withdrawn as part of the plea resolution.

Tree By-law Charges

In addition, charges were laid against Robert Strmota and 1605772 Ontario Limited under the Regional Municipality of York's Tree By-law (Information numbers 4960-999-13-2840 and 4960-999-13-2841). On September 16, 2014, guilty pleas were entered by both defendants. Fines of \$5,000.00 were imposed against each defendant, plus \$5.00 costs and VFS of \$1,250.00 each. The defendants were given 12 months to pay the fines. In addition, a reforestation Order was granted. The Order requires organic material to be brought on site and for 1,040 trees to be planted of various types and sizes. The planting is to be completed by May 31, 2015. The Order is registered on title to the property at 14476 Yonge St.. It is also part of the court record.

The total payable for all violations, amounts to \$24,415.00 (fines of \$20,000.00, costs of \$40.00 and VFS of \$4,375.00), plus the cost of replanting the trees.



NOTICE OF MOTION

Councillor Tom Mrakas

Date: December 16, 2014
To: Mayor and Members of Council
From: Councillor Mrakas
Re: Sign By-law Enforcement

WHEREAS the placement, number, sizes, installation and removal dates of municipal election signs are subject to the provisions of the Temporary Sign By-law; and

WHEREAS compliance with the Temporary Sign By-law is enforced by Town of Aurora By-law Services; and

WHEREAS By-law Services' complements are increased periodically and temporarily to address increased demands due to specific enforcement issues such as winter parking restrictions; and

WHEREAS additional By-law Services are required during municipal elections so as to ensure compliance with and enforcement of the Temporary Sign By-law;

NOW THEREFORE BE IT HEREBY RESOLVED THAT staff be directed to bring forward a request during the 2018 Budget discussions to hire additional By-law enforcement officer(s), on a temporary contractual basis, for the purposes of enforcing the provisions of the Temporary Sign By-law pertaining to municipal election signs.