

GRAY & ASSOCIATES

Barristers & Solicitors
Unit 37
111 Zenway Boulevard
VAUGHAN, Ontario
L4H 3H9

Telephone (905) 264-1040
Toronto Line (416) 410-1208
Fax (905) 264-7080

Reply to: Frank Torchia
Assistant: Elena Tchervatiouk

September 24, 2012

DELIVERED BY EMAIL: Jeffrey.Abrams@vaughan.ca

URGENT

Office of the City Clerk
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

C	15
Item #	41
Report No.	33
Council - Sept 25/12.	

Attention: Jeffrey A. Abrams

Dear Sir:

RE: Item 41, Report No. 25
Committee of the Whole Hearing – June 5 and September 4, 2012
Fence Height Exemption Application – 25 Fiorello Court, Vaughan

Further to the above-noted Application, we wish to advise you that we represent Mr. Mario Pacitto, resident of 17 Fiorello Court.

As expressed by Mr. Pacitto in his letters to Ms. Heron and the Enforcement Services Department in relation to the above referenced hearings, he is vehemently opposed to the application for the reasons set out in his letters, which are enclosed herein for your reference.

At the hearing of June 5, 2012, the Committee had recommended that the fence height application be denied and as such, Council adopted the recommendation in its meeting of June 26, 2012. Thereafter, the matter was brought back to the Committee for reconsideration on September 4, 2012 at the request of Councillor Rosanna DeFrancesca. Consequently, on September 4, 2012, the Committee voted to reverse the decision of June 5th and recommended that the application be approved.

Mr. Pacitto does not agree with the most recent recommendation put forth by the Committee and feels that the decision was based on facts that may not be entirely accurate. In particular, it was expressed by the applicant that the entire subdivision had rear yard fencing installed by the developer at a height that was significantly higher than that allowed under By-Law 80-90. In reality, this is not the case. According to measurements taken by Mr. Pacitto and as indicated by the developer in their letter to council dated August 31, 2012, the rear yard fencing complies with the by-law, save and except for any acoustical fencing, which was purposefully erected to stand at a higher level.

In addition, the portion of the fencing in the subdivision that sits above the height stipulated by the by-law was improperly installed by the same contractor hired by each of the individual home owners. As a result of the incorrect installation, the contractor has given all home owners a letter stating that he will be responsible for any corrective work, if the City requires the fence to be cut down, as per the by-law.

Mr. Pacitto would like to stress that he has approached the applicant to try and resolve the issue amicably and reasonably (as was suggested Committee members), and in doing so, he has agreed to make some concessions and have the fence remain at a maximum height of six feet (6'6") six inches. Unfortunately, the applicant is not willing to make any concessions on his part and therefore, Mr. Pacitto is forced to express his displeasure to the City.

It is only fair that if one property owner wants to make changes to a fence, which is shared with a neighbouring property owner, and the neighbouring owner does not agree with such change, the by-law should prevail, rather than the decision being thrust upon him. Moreover, to allow this decision would mean that the contractor would be relieved from any wrongdoing and the property owner would be stuck with a product that was never agreed upon namely, a higher fence.

As part of the Committee's reasoning, they expressed that their job is to make decisions and as such, they need some flexibility in the interpretation of the by-laws. Mr. Pacitto understands this and appreciates the role that the Committee plays in shaping the City's by-laws. However, this issue deals with two neighbours holding different points of view and the Committee should not be favouring one constituent in favour of the other. The result should be fair and means that the City by-law should prevail.

We hope to have conveyed to you that although this matter may seem trivial in nature, it means a great deal to Mr. Pacitto and we hope that Council will take this letter into serious consideration before adopting the recommendation.

Yours very truly,

GRAY & ASSOCIATES

Per:



Frank Torchia

/et

Encl.