



Corporate Services Department
Regional Clerk's Office

May 20, 2008

Ms. Sheila Birrell
Town Clerk
Town of Markham
101 Town Centre Boulevard
Markham, Ontario L3R 9W3

Dear Ms. Birrell:

Re: *Municipal Fortification By-law*

Regional Council, at its meeting held on May 15, 2008, had before it a communication dated April 28, 2008 and accompanying report dated April 23, 2008, approved by the York Police Services Board at its meeting on April 23, 2008, from the Executive Director, York Police Services Board regarding the *Municipal Fortification By-law*. Regional Council also heard a presentation from Inspector Thomas Carrique and Detective Peter Fleming from the York Regional Police and Regional Solicitor Joy Hulton on this matter.

Regional Council received the communication and it was Council's decision to:

1. endorse the efforts by York Regional Police and the Staff Working Group; and
2. encourage all area municipalities within York Region to adopt a uniform fortification by-law and to establish best practices for the application of such a by-law in each municipality across the Region and
3. that the Area Clerks be so advised.

A copy of the communication, report and Council Minute No. 71 is enclosed for your information.

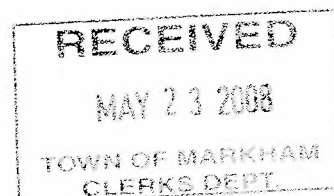
Sincerely,

A handwritten signature in cursive script that reads "Denis Kelly".

Denis Kelly
Regional Clerk

DK/lmb
Attachment

Copy - John Wright
- Bill Wiles
- John Livey





Regional Municipality of York Police Services Board

17250 Yonge Street, Newmarket, Ontario Canada L3Y 4W5
905-895-1231 or Toll Free: 1-877-464-9675 Ext. 7906
Fax: 905-895-5249 Web Site: www.yrpsb.ca

To Make a Difference in Our Community

April 28, 2008

Mr. Denis Kelly
Regional Clerk
The Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

**REGION OF YORK
CLERK'S OFFICE**

FILE No. - 903

Chairman
Danny Wheeler
Regional Councillor
and Deputy Mayor

Vice-Chairman
Joe Persechini
Provincial Appointee

Members
Bill Fisch
Regional Chairman
and C.E.O.

Barbara Munro
Regional Council
Appointee

Mayor Frank Scarpitti
Regional Council
Appointee

Sam Herzog
Provincial Appointee

Joanna Yu
Provincial Appointee

Executive Director
Connie Phillipson

Dear Mr. Kelly:

At its meeting on April 23, 2008, the Regional Municipality of York Police Services Board received the attached report from Chief Armand P. La Barge entitled *Municipal Fortification Bylaw* and subsequently approved the following recommendations:

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 in each municipality across the Region; and
2. That all local municipalities be so advised; and
3. That this report be forwarded to Regional Council for endorsement.

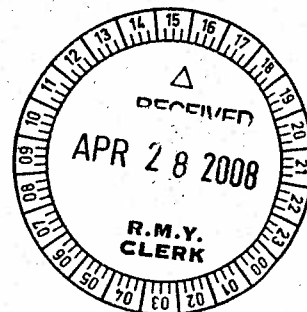
Therefore, in accordance with the Board's resolution, I request that you forward this correspondence to Regional Council for its consideration.

Yours truly,

Connie Phillipson
Executive Director

Attachment

c. Regional Councillor Danny Wheeler, Chairman





York Regional Police

Chief of Police
Armand P. La Barge

17250 Yonge Street, Newmarket, Ontario, Canada L3Y 4W5
1-866-8POLICE TTY 1-800-668-0398 Fax 905-853-5810 www.police.york.on.ca

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

APL:bh

Minute No. 71 as recorded in the Minutes of the meeting of the Council of The Regional Municipality of York held on May 15, 2008.

71 Municipal Fortification By-law

Connie Phillipson, Executive Director, York Police Services Board, April 28, 2008, forwarding a copy of the report entitled *Municipal Fortification Bylaw*, received at the Board's meeting on April 23, 2008.

It was moved by Regional Councillor Wheeler, seconded by Mayor Scarpitti that the communication be received and that Regional Council:

1. endorse the efforts by York Regional Police and the Staff Working Group; and
2. encourage all area municipalities within York Region to adopt a uniform fortification by-law and to establish best practices for the application of such a by-law in each municipality across the Region and
3. that the Area Clerks be so advised.

Carried

