

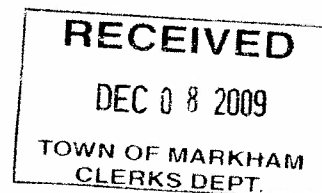


Regional Municipality of York Police Services Board

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

December 2, 2009



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Regional Councillor
and Deputy Mayor

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Provincial Appointee

Barbara Bartlett
Regional Council
Appointee

Executive Director
Mafalda Avellino

Ms. Kimberley Kitteringham
Town Clerk
Town of Markham
101 Town Centre Boulevard
Markham, ON L3R 9W3

Dear Ms Kitteringham:

At its meeting on November 25, 2009, the Regional Municipality of York Police Services Board received the attached report entitled *Recovery of Policing Costs Associated to the Dismantle of Illegal Marihuana Grow Operations and Other Chemical Clandestine Laboratories* from Chief Armand P. La Barge, and approved the following recommendation:

1. That the Board request local municipal governments within the Regional Municipality of York enact appropriate by-laws to enable the recovery of costs incurred by police in the dismantling of indoor marihuana grow operations and other chemical clandestine laboratories, and the removal and disposal of hazardous materials and other drug paraphernalia.

Therefore, on behalf of the Police Services Board, I request that you forward this correspondence to Town Council for its consideration and enactment of appropriate by-laws.

Yours truly,

Mafalda Avellino
Executive Director

Attachment

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

25 NOVEMBER 2009

Recovery of Policing Costs Associated to the Dismantle of Illegal Marihuana Grow Operations and Other Chemical Clandestine Laboratories

RECOMMENDATION

1. That the Board request local municipal governments within the Regional Municipality of York enact appropriate by-laws to enable the recovery of costs incurred by police in the dismantling of indoor marihuana grow operations and other chemical clandestine laboratories, and the removal and disposal of hazardous materials and other drug paraphernalia.

SYNOPSIS

York Regional Police has, for a number of years, had an aggressive investigative, enforcement, education and awareness strategy for dealing with illegal marihuana grow operations and other illicit clandestine drug laboratories. The operational components of this strategy include identification of premises used for this illegal activity, the investigation of those responsible, and the search and seizure of evidence in support of these investigations.

This reports proposes a means of recovering costs of initial remediation of properties used for the illegal production of controlled substances, incurred by local municipalities and the police, utilizing authorities found in the *Controlled Drugs and Substances Act* and the *Municipal Act*.

FINANCIAL IMPLICATIONS

There is potential for police and other municipal services to recoup considerable costs currently incurred in the removal and disposal of controlled substances, pre-cursors and

other drug paraphernalia related to the production of controlled substances from premises within the Regional Municipality of York.

BACKGROUND

York Regional Police has been a provincial leader in the fight against marihuana grow operations for many years. The Drugs & Vice Unit deploys two drug teams that are tasked with investigating *Controlled Drugs and Substances Act* production related offences. Since 2006, members of the Drugs & Vice Unit have dismantled 262 marihuana grow operations, seized 131,693 marihuana plants, and charged 500 people with 1,381 offences under the *Controlled Drugs and Substances Act*. During that same period, 66 children have been rescued from these illegal and dangerous drug factories.

MARIHUANA GROW HOUSE INVESTIGATIONS				
Year	Grow Houses	Plants	Accused	Charges
2006	78	29,325	108	256
2007	85	36,844	153	371
2008	64	34,716	149	501
2009 YTD	36	30,808	90	253
TOTAL	263	131,693	500	1,381

There are significant health and safety risks associated with indoor marihuana grow operations due to mould, elevated levels of carbon monoxide and carbon dioxide, electrical hazards, and other chemicals and pesticides used to foster plant growth. This is equally true of other illicit clandestine production laboratories, predominantly those used for the illegal production of methamphetamine and Ecstasy. These health and safety risks extend beyond those involved with the production of controlled substances, to other occupants, especially children, of the premises used for this illegal activity, and further to those in the immediate area surrounding these facilities.

Preliminary discussions about cost recovery strategies have taken place between representatives from the York Regional Police, the Regional Solicitor and representatives from the legal departments of the various local municipalities within York Region. Although there has been no commitment with respect to how we will move forward on this issue, it is our understanding that the local municipalities would be open to further discussion on a cost recovery process.

In understanding the process by which it would be possible to recover costs incurred by the police in the dismantling of marihuana grow operations and illicit clandestine laboratories it is necessary to refer to two particular statutes, the *Controlled Drugs and Substances Act* and the *Municipal Act*, from which the authority to recover these costs flows. The relevant sections from the *Municipal Act* are:

The *Municipal Act*, 2001, S. O. 2001, c. 25

Section 10(2) of the *Municipal Act* permits a municipality to enact by-laws to regulate certain matters for purposes related to the health, safety and well-being of the inhabitants of the municipality.

Section 128 of the *Municipal Act* permits a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances.

Section 391 of the *Municipal Act* permits a municipality to impose fees or charges on persons, for services or activities provided or done by or on behalf of it; or for costs payable by it for services or activities provided or done by or on behalf of any other municipality or any local board [this would also include the Police Services Board; and for the use of its property including property under its control.

Drugs & Vice Unit members are trained to dismantle both indoor marihuana grow operations (IMGO) and clandestine laboratories involved in the production of synthetic drugs.

The Dismantling of Indoor Marihuana Grow Operations

The following process is generally adhered to in order to dismantle an indoor marihuana grow operation:

- Assessment of the premises upon entry. This would include inspection for devices designed to injure or kill, electrical alterations within the premises, air quality testing, and search for suspect(s).
- Rendering the premises safe for officers to commence gathering evidence and dismantling of equipment. This would include a certified electrician disconnecting a hydro by-pass, as well as ventilating the premises to ensure adequate air quality.
- Processing the scene for evidence:
 - Trained Scenes of Crimes Officers attend to secure, document and photograph or video tape anything of evidentiary value.
 - An exhibit officer will count and document the number of marihuana plants and there location within the premises, as well as all the grow operation equipment, including lights, shades, ballasts and chemicals found within the premises.
- Investigators will cut down all the plants, and physically carry the plants and all the grow operation equipment out of the premises to be transported to a storage facility. The bulk marihuana is stored at a secure location until it is destroyed. Grow operation equipment is taken to seized property management directorate for storage, pending disposition of the case.
- A final check of the premises is performed by the officers and the local power company is notified in order to disconnect the hydro to the premises.

The time frame of the above process will vary depending on the size of the marihuana grow operation, the premises where the marihuana grow operation is housed, and the

sophistication of the grow operation. In general it takes between two to eight hours, utilizing a team of six officers to dismantle an IMGO.

The Dismantling of Clandestine Synthetic Drug Production Laboratories

The following process is generally followed in order to dismantle a clandestine synthetic drug production laboratory:

- Assessment of the premises upon entry. This would include inspection for devices designed to injure or kill, electrical alterations within the premises, air quality testing, and search for suspect(s), a determination of the type of laboratory that the investigators are dealing with and the 'stage' of the production process.
- Terminating any chemical reactions that may be on-going.
- Venting the premises to ensure a clean air exchange process is occurring.
- Processing the scene for evidence:
 - Trained Scenes of Crimes Officers will attend to secure, document and photograph or video tape anything of evidentiary value.
 - The removal of all hazardous equipment and chemicals from the premises, in order of priority, depending on the danger that is associated with each item. All items are removed by trained drug investigators from inside to a safe location on the outside of the premises.
 - With assistance from a Health Canada chemist, the items from the clandestine laboratory are inspected and categorized.
 - The exhibit officer will count and document all controlled substances, precursors, equipment and other chemicals that are located within the premises. Samples will be taken by the exhibit officers and the Health Canada chemist assigned to the case.
- Assist and direct personnel from an environmental service company with the removal of any contaminated items as well as chemicals and other identified hazardous materials.
- Final clearance of premises and assistance provided to the local municipality with 'non-occupancy' restrictions and local power supply company with shutting down the hydro supply to the premises.

It should be noted that most of this process is undertaken by trained investigators from the Drugs & Vice Unit, who are required to wear Level 'B' personal protective equipment, which is comprised of chemical resistant suits and requires the use of self contained breathing apparatus (SCBA). Due to the nature of the clothing worn, and the necessity to use a SCBA, which provides about 30-40 minutes of air, numerous entries into the clandestine laboratory need to be made. Each entry culminates in a decontamination

process, usually conducted by the municipal fire service, and a medical assessment, conducted by EMS.

The time frame for this process varies depending on the size and type of the clandestine laboratory operation, the nature of the premises where the clandestine laboratory is housed, and the sophistication of the operation.

The dismantling of a clandestine laboratory producing synthetic chemical drugs such as methamphetamine and Ecstasy is generally very time consuming due to the volatile nature of the production process and substances that are being used. This process is coordinated between trained investigators from the Drugs & Vice Unit, local fire services and Health Canada. In general it takes one to fourteen days for a team of investigators, assisted by the aforementioned agencies, to dismantle a clandestine synthetic drug production laboratory.

The Cost Recovery Process

To enable York Regional Police to recover costs incurred in the dismantling of marihuana grow operations and illicit clandestine laboratories the local municipalities in the Region of York would need to enact by-laws, that deal either with public nuisances, in this case the grow operations or clandestine laboratories, that impose a fee or charge for the service provided by the police.

By doing this the local municipality establishes a process of attributing the cost for remediating the illegal activity to the owner of the property. It further provides a means of recouping these costs through property taxes where the property owners default on fees or other costs attributed to the remediation process.

This process has worked, and is currently in place in the City of Mississauga and the City of Brampton. In 2003, the City of Mississauga passed by-law 225-2003 "respecting the prohibition of controlled substance manufacturing operations", and in 2004 the City of Brampton passed by-law 361-2004 "to recover costs of police and other public sector staff attendances at marihuana grow houses to abate public nuisances and to amend user fee by-law 380-2003."

Following the enactment of these by-laws, memoranda of understanding were entered into between the Peel Regional Police Service and the Cities of Mississauga and Brampton. These memoranda establish a mechanism for billing and payment for services rendered by the Peel Regional Police Service in the remediation of marihuana grow houses. Peel Regional Police now invoices the appropriate municipal government, which it turn reimburses Peel Regional Police once the charges are paid.

The City of Mississauga reported recovering the following costs as part of this process:

2006 – \$ 351,797.49
2007 – \$ 221,861.12
2008 – \$ 106,670.81

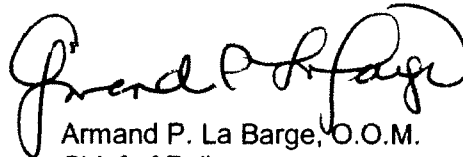
The higher cost recoveries in 2006 and 2007 were attributed to cost of dismantling two clandestine methamphetamine laboratories.

The City of Brampton reported recovering the following costs as part of this process:

2006 - \$ 64,164.08

2007 - \$ 52,884.74

The proposed mechanism for the recovery of policing costs attributed to the dismantling and remediation of properties used for the illegal production of controlled substances has been put in place in other jurisdictions. It has proved to be another effective means of combating this problem, and has resulted in cost recovery amounting to \$797,378.24 over a three year period in the Regional Municipality of Peel.

A handwritten signature in black ink, appearing to read "Armand P. La Barge".

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

APL/rc



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To Make a Difference in Our Community

February 2, 2010

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**TOWN OF MARKHAM
CLERKS DEPT.**

Chairman
Danny Wheeler
Regional Councillor
and Deputy Mayor

Vice-Chairman
Joe Persechini
Provincial Appointee

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

Mayor Frank Scarpitti
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Sam Herzog
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Joanna Yu
Provincial Appointee

Barbara Bartlett
Regional Council
Appointee

Executive Director
Mafalda Avellino

Ms Kimberley Kitteringham
Town Clerk
Town of Markham
101 Town Centre Boulevard
Markham, ON L3R 9W3

Dear Ms Kitteringham:

At its meeting on January 27, 2010, the Regional Municipality of York Police Services Board approved the attached resolution on Marihuana Medical Access Regulations – Licensed Marihuana Grow Operations.

To date, there are no mechanisms in place to ensure that individuals licensed to grow marihuana for medical purposes adhere to the laws and regulations around fire, safety and electrical hazards. There is no process in place to inform local governments or police services of licenses issued in their communities. This omission places future occupants and owners at a personal safety and financial risk.

The Board resolution supports the view that persons who are granted a certificate to grow marihuana be in compliance with federal, provincial and local laws and regulations.

Therefore, on behalf of the Police Services Board, I request that you forward this correspondence with the attached resolution to Town Council for its consideration and support.

Yours truly,

Regional Councillor Danny Wheeler
Chairman, Police Services Board

Attachment



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REGIONAL MUNICIPALITY OF YORK POLICE SERVICES BOARD

RESOLUTION MARIHUANA MEDICAL ACCESS REGULATIONS – LICENSED MARIHUANA GROW OPERATIONS

WHEREAS in June 2001, the federal government implemented the Marihuana Medical Access Regulations (MMAR) which allows for licensed marihuana grow operations. The MMAR authorizes Health Canada to issue licenses to possess, as well as produce, marihuana for persons with certain medical conditions. It also allows for designated third parties to produce marihuana for persons with medical conditions.

AND WHEREAS the Regional Municipality of York Police Services Board recognizes that there are substantial health risks associated with indoor marihuana grow operations, legal or illegal, due to mould, elevated levels of carbon dioxide, electrical hazards and other chemicals and pesticides used to foster plant growth.

AND WHEREAS administered by Health Canada, the MMAR do not supersede other legislation including municipal by-laws. Individuals licensed under the MMAR are required to observe all other laws such as zoning, fire and electrical regulations. Health Canada maintains that it is not part of their mandate to verify the safety standards of each production site.

AND WHEREAS there is no mechanism in place to ensure that individuals licensed to grow marihuana under the MMAR adhere to federal, provincial laws and municipal building, fire and electrical regulations. Consequently, there is an increased and unaddressed risk to building occupants and others including emergency personnel.

THEREFORE BE IT RESOLVED, that the Regional Municipality of York Police Services Board calls upon Health Canada to require electrical, fire and building inspections as a condition of licensing to produce marihuana in accordance with MMAR.

AND BE IT FURTHER RESOLVED, that the Regional Municipality of York Police Services Board calls upon Health Canada to notify local governments and police services of locations licensed to produce marihuana in accordance with MMAR, therefore, enabling regional and municipal authorities to ensure sites are compliant with pertinent laws and regulations.

AND BE IT FURTHER RESOLVED, that the Regional Municipality of York Police Services Board calls upon the Canadian Association of Police Boards to express their support of this resolution.