

New bylaw will allow neighbourly access for home repairs

By Brock Weir

A new bylaw will allow Aurora residents entry to their neighbours' properties in order to carry out repairs and maintenance on their own homes this week.

Council is set to approve a new right-of-entry bylaw that would allow the Town to regulate access onto adjoining properties with the expressed purpose of making repairs to the residents' properties.

Some might say allowing a neighbour access onto your property to pave the way for better access to what is in need of repair is simply what being a good neighbour is all about, but that was not the case for one resident who approached Council with his concerns this past spring over being denied access to his home via a neighbour's property to carry out a necessary repair.

Following this complaint, Town Staff pitched a new bylaw for Council's consideration at the Committee level last week calling on them to enact a bylaw creating a non-permit system to allow right-of-entry at any reasonable hour. This was a recommendation approved at Committee and is set for ratification this week.

?The minimum requirements for such a bylaw should include provisions dealing with the manner in which a right-of-entry is exercised, providing reasonable notice, and ensuring that the adjoining property is left in the same condition as it was before entry occurred,? said Warren Mar, Solicitor for the Town of Aurora. ?This will give Town residents sufficient authority to enter adjoining property for the purposes set out in [the Municipal Act] being for the necessary repair and maintenance of their property. The Town would serve an informational role, with the goal of informing residents of their rights and preventing disputes.

?Any disputes between neighbours would require resorting to civil action ? thereby limiting the responsibility and expense obligations of the Town to enforce the bylaw. In most situations, it is likely that the owner of the adjoining property will consent to their neighbour accessing their property for the purposes of making necessary repairs or alterations. However, in situations where the neighbour refuses entry to the owner or occupant of the adjoining property seeking access, a right-of-entry bylaw may be useful.?

Such bylaws are enacted in Toronto, Ottawa, London, Windsor, Oshawa and Hamilton, with some municipalities monitoring access through a permit system. Following suit in Aurora, however, was deemed too costly, thus the recommendation to move forward with the Town functioning in an ?informational? capacity.

?A right-of-entry bylaw that implements a permit scheme enforced by the Town would likely require additional staffing resources for the review and issuing of permits, and for enforcement purposes,? said Mr. Mar. ?However, the additional staff resources, and costs thereof, may be recoverable through the implementation of a permit fee. Staff projections determined the average cost of the permit program would be \$28,700 per year, the entirety for which would be recoverable through the implementation of permit fees for high and low impact work. These projections do not account for the costs associated with the enforcement of non-compliance.?

At last week's General Committee, the proposed bylaw received the green light with little discussion, with the exception of a hypothetical posed to Mr. Mar by Councillor Wendy Gaertner on what would happen in a row house situation where several properties may need to be accessed to make a repair.

She recently encountered one such property owner at Town Hall who was ?very upset? about their situation where maintenance work was required. Going a step further and asking how this would be applied if neighbours sought access to move gardening equipment, that is where Mr. Mar said Town involvement would be limited.

?We would suggest residents work together with their neighbours to try and accommodate each other in those circumstances,? he said.