



CITY OF KINGSTON
REPORT TO COUNCIL

Report No.: 10-095

TO: Mayor and Council

FROM: Terry Willing, Acting Commissioner, Community Development Services Group

RESOURCE STAFF: Kim Leonard, Manager, Licensing & Enforcement Division

DATE OF MEETING: 2010-03-23

SUBJECT: Empire Life Insurance – Request for Extension of Noise Exemption

EXECUTIVE SUMMARY:

Empire Life Insurance is requesting an extension to their current noise exemption under the Noise By-Law due to the additional time that will be needed because of delays in the commencement of the project, and to remove a second membrane that was discovered at the beginning of their garage rehabilitation at 259 King Street East. The extension has been requested to cover construction up to April 15, 2010.

RECOMMENDATION:

THAT Empire Life Insurance Co. be granted an exemption from the normal 7:00 pm to 7:00 am restriction under Schedule "B" of By-Law No. 2004-52 "A By-Law To Regulate Noise", in order to allow for concrete restoration work between the hours of 6:00 a.m. and 7:00 a.m. and also between the hours of 7:00 p.m. and 11:00 p.m.;

THAT the exemption be in effect from Monday through Thursday from 6:00am to 11:00pm until April 15, 2010.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER
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Terry Willing, Acting Commissioner, Community Development Services
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ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER
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Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Commissioner Beach, <i>Sustainability & Growth</i>	NR
Commissioner Leger, <i>Corporate Services</i>	NR
Jim Keech, President, <i>Utilities Kingston</i>	NR

(N/R indicates consultation not required)

OPTIONS/DISCUSSION:

In January 2010 Empire Life Insurance sought an exemption under the Noise By-Law to perform garage rehabilitation at 259 King Street East. At its general meeting held on February 2, 2010 Kingston City Council approved the following:

" THAT Empire Life Insurance Co. be granted an exemption from the normal 7:00 pm to 7:00 am restriction under Schedule "B" of By-Law No. 2004-52 "A By-Law To Regulate Noise", in order to allow for concrete restoration work between the hours of 6:00 a.m. and 7:00 a.m. and also between the hours of 7:00 p.m. and 11:00 p.m.;

THAT the exemption will be in effect from 6:00 a.m. on Mondays until 11:00PM on Thursdays running from February 3, 2010 until March 11, 2010;"

An extension has been requested because the project did not start on February 2nd as planned, and as a result of additional testing at the site it was determined that the existing membrane removal will take much longer than anticipated due to the discovery of a second membrane. The contractor cannot complete the work within the timelines of their original forecast. The work will involve mechanical chippers, saw cutting and jack-hammers with electric compressors located within the garage. The use of electric compressors will substantially reduce the noise as they can be located in the garage and they do not have a combustion engine.

Other than the demolition work within the garage, all other work can be conducted within the permitted regulations.

Construction has commenced on the project with night work beginning on Wednesday, February 17, 2010. There has not been any noise complaints received as a result of the current construction.

EXISTING POLICY/BY LAW:

Council has granted exemptions to the Noise Control By-law in order to accommodate one time construction events. Empire Life Insurance was granted an exemption for this project on February 2, 2010, a copy of which is attached hereto as Exhibit "B".

NOTICE PROVISIONS:

An advertisement of this request for exemption was placed in the Kingston Whig Standard on February 16, 2010 and is attached hereto as Exhibit "A". There have been no objections submitted to this request.

Council has granted exemptions to the Noise Control By-Law for this type of construction in the past, and the authority to do so is specifically granted to Council under Subsection 129 (3) of the *Municipal Act*.

ACCESSIBILITY CONSIDERATIONS:

There are no accessibility considerations.

FINANCIAL CONSIDERATIONS:

A \$100.00 fee was received to help cover the cost of processing noise exemption requests. There are no other financial considerations because advertisements were placed at the expense of Empire Life Insurance.

CONTACTS:

Kim Leonard, Manager, Licensing & Enforcement – 613-546-4291 ext. 3222
Greg McLean, Supervisor, Animal Control & By-Law Enforcement – 613-546-4291 ext. 1336
Paul R. Wood, P. Eng, M.R. Wright & Associates Co. Ltd., 613-536-5090

OTHER CITY OF KINGSTON STAFF CONSULTED:

Brian Fleming, Kingston City Police – 613-549-4990

EXHIBITS ATTACHED:

Exhibit "A" – Public Notification for Application of Noise Exemption

Exhibit "B" – Council Resolution Approving Initial Noise Exemption

EXHIBIT "A"

Kingston Whig Standard – February 16, 2010

Public Notice Section

Noise Exemption

Empire Life Insurance Co. has made application for an exemption to Noise Control By-Law 2004-52 Schedule "B" to permit garage rehabilitation at 259 King Street East. The applicant has requested that the exemption cover operations from 6:00 a.m. until 11:00 p.m. Monday to Thursday commencing on Wednesday, March 17, 2010 and ending on Thursday, April 15, 2010.

The current by-law only permits this activity from Monday to Saturday between the hours of 7:00 a.m. and 7:00 p.m. and excludes Sundays and Statutory Holidays.

Anyone wishing to object to this exemption should deliver their concerns in writing or by e-mail before 4:00 p.m. on Friday, February 26, 2010 to:

City of Kingston
Kim Leonard, Manager, Licensing & Enforcement
216 Ontario Street
Kingston, ON K7L 2Z3

Phone: 613-546-4291, ext. 3222
Fax: 613-542-1332
Email: kleonard@cityofkingston.ca
Located at 216 Ontario Street

This matter will be considered during the regular Council Meeting that commences at 7:30 p.m. on Tuesday, March 16, 2010.

NOTICE OF COLLECTION: Personal Information collected is pursuant to the Municipal Freedom of Information and Protection of Privacy Act (and all other applicable privacy provincial and federal legislation). Such legislation is reviewed and applied for the collection, use, disclosure and destruction of the information. The personal information collected as a result of this public notice will be used to assist in making a decision on this matter. All names, addresses, opinions and comments collected will be made available for public disclosure. Questions regarding this collection should be forwarded to Kim Leonard, Manager of Licensing and Enforcement, 216 Ontario Street, Kingston, Ontario, K7L 2Z3 or by e-mailing kleonard@cityofkingston.ca

EXHIBIT "B"
Council Resolution Approving Initial Noise Exemption

"THAT Empire Life Insurance Co. be granted an exemption from the normal 7:00 pm to 7:00 am restriction under Schedule "B" of By-Law No. 2004-52 "A By-Law To Regulate Noise", in order to allow for concrete restoration work between the hours of 6:00 a.m. and 7:00 a.m. and also between the hours of 7:00 p.m. and 11:00 p.m.;

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