



**CITY OF KINGSTON**  
**REPORT TO COUNCIL**

**Report No.: 12-164**

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**TO:** Mayor and Members of Council

**FROM:** Cynthia Beach, Commissioner, Sustainability & Growth

**RESOURCE STAFF:** Terry Willing, Director, Building & Licensing  
Kim Leonard, Manager, Licensing & Enforcement

**DATE OF MEETING:** June 19, 2012

**SUBJECT:** Request for Noise Exemption – Homestead Landholdings

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**EXECUTIVE SUMMARY:**

Homestead Land Holdings Limited has made application for an exemption to Noise Control By-Law 2004-52 Schedule “B” to permit concrete finishing only on a high rise apartment building at 725 Highway 15. The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and midnight. Construction is scheduled to commence on Monday, June 25, 2012 and continue only when necessary from Monday to Friday, excluding Sundays and Statutory Holidays, until Friday, November 23, 2012, for a maximum of 25 occurrences.

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. Staff have considered public feedback and are recommending a reduced period of exemption to end at 11:00 p.m. along with limitations on the number of occurrences. It is, however, recognized that this will not completely resolve the objections.

**RECOMMENDATION:**

**THAT** Homestead Land Holdings Limited be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under Schedule “B” of By-Law No. 2004-52, “A By-Law To Regulate Noise,” in order to allow for concrete finishing only on a high rise apartment building at 725 Highway 15 for operations between the hours of 7:00 p.m. and 11:00 p.m. from Monday, June 25, 2012 and continue only when necessary from Monday to Friday, excluding Statutory Holidays, until Friday, November 23, 2012, and;

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**THAT** this activity be permitted only for 25 days during the exemption period with a maximum of one exemption per week, and that Homestead Land Holdings Limited provides the City of Kingston, through the Manager, Licensing and Enforcement Division, 48 hours notice before the pouring of concrete.

**AUTHORIZING SIGNATURES:**

ORIGINAL SIGNED BY COMMISSIONER _____ Commissioner, Cynthia Beach, Sustainability and Growth
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer

**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties &amp; Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

***(N/R indicates consultation not required)***

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**OPTIONS/DISCUSSION:**

Homestead Land Holdings Limited had made application for an exemption under Schedule "B" of By-Law No. 2004-52, "A By-Law To Regulate Noise," to permit concrete finishing only on a high rise apartment building at 725 Highway 15 . The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and midnight, from June 25, 2012 and continue only when necessary from Monday to Friday, excluding Statutory Holidays, until Friday, November 23, 2012.

Homestead confirms that they have either met with or attempted to meet with the closest residents to the site. A meeting was held on April 26, 2012 with the residents of 151 Barrett Court which is the closest residential building to the construction site. The meeting was attended by 26 residents and at the end of the session the residents for the most part understood and were supportive of the application for exemption. An offer to meet with both the boards of 110 Barrett Court and 115 Barrett Court to discuss the application was sent via email on April 27, 2012 to the Manager of these buildings. The buildings Manager's only concern was that she receives notification in advance of utilization of the exemption in order to allow her to post a notice in the buildings. Homestead has agreed to provide advance notification as requested. An information notice for residents in regards to the application for exemption and construction project was posted at 144 Barrett Court on April 27, 2012.

Homestead has confirmed that a maximum of 25 pours will be required, and therefore staff have restricted the noise exemption to a maximum of 25 days over the span of the exemption and no more than one occurrence will be permitted per week.

The proposed work consists of concrete finishing which requires the use of power trowels. The noise exemption application is strictly for the use of the power trowels between 7:00 p.m. and 11:00 p.m. Extended hours will only be used when absolutely necessary. Concrete placement and all other construction activities will be completed by 7:00 p.m. Homestead would be available to respond to complaints.

Homestead had requested a noise exemption until 12:00 a.m. as each slab being poured is substantially larger than the slabs that were poured at 151 Barrett Court. At 151 Barrett Court, each slab was typically 1178 m<sup>2</sup> in size, whereas at 725 Hwy 15, each slab will be typically 1442 m<sup>2</sup> in size. This increase in slab size will require more time for the placement and finishing of the concrete, therefore, even though Homestead will be pouring in warmer weather, the increase in slab size will offset any time gained by the warmer weather.

Staff had proposed a 9:00 p.m. exemption for the warmer weather and then 11:00 p.m. when the weather becomes cooler; however cutting back to a 9:00 p.m. exemption would run the risk of not being able to properly complete the concrete installation operations in time to ensure the proper strength gain of the whole slab. If this occurs, grinding would be required for the portion of the individual slabs that the concrete finishers were not able to complete. Even though the grinding would occur between the allowable hours of the noise by-law, it would cause much

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more of a disruption to residents because the grinding process emits significantly more noise than smoothing the concrete with gas powered trowels on the day of the pour. Homestead has submitted a noise impact assessment which shows the concrete finishing can be completed in a way so that the noise being emitted will have little to no noise impact on the neighbouring residents at 151 Barrett Court after 7:00 p.m., and has zero noise impact on all other surrounding buildings. A copy of the noise impact assessment is available upon request.

Staff have also determined that there have been seven applications for noise exemptions for high rise buildings between the years 2003 and 2012. Previous approvals for noise exemptions have been granted through Council, the resolutions of which are attached hereto as Exhibit "A". The Building Department has verified that there have been seven permits issued over the same period for high rise buildings similar to the subject property, including the one building that was the subject of two requests, so every building of this class has required an exemption to the Noise By-Law to accommodate normal construction procedures.

An exemption request of this type, when advertised, is often perceived as being disruptive and as having a prolonged impact on residents in the area. In reviewing previous requests for noise exemptions staff have determined that several objections can often be received for a proposed exemption while no complaints are received when the actual exemption is being utilized. Homestead has confirmed that the requested exemption will only be utilized when absolutely necessary.

Objections to the request are attached as Exhibit "B". Staff are recommending approval on the basis that the incidents are restricted under the proposed approval to no more than 25 days over the period to November 23, 2012 and no more than one exemption per week. It is a normal requirement in Kingston and most cities for buildings of this size to require the additional time for finishing of the concrete slabs which are required to be a monolithic pour in order to provide superior structural strength for a building of this height.

**EXISTING POLICY/BY LAW:**

Council has granted exemptions in the past to the Noise Control By-law in order to accommodate concrete finishing in high rise buildings. Copies of previous Council resolutions are attached hereto as Exhibit "A".

The authority to authorize such exemptions is specifically granted to Council under the *Municipal Act*. The Act allows Council to grant exemptions for extended durations, and it does not limit Council to a maximum exemption period of six months.

**NOTICE PROVISIONS:**

An advertisement of this request for exemption was placed in the Kingston Whig Standard on April 24, 2012, a copy of which is attached hereto as Exhibit "C".

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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* which no longer requires public notification.

**ACCESSIBILITY CONSIDERATIONS:**

There are no accessibility considerations.

**FINANCIAL CONSIDERATIONS:**

A \$106 fee was received as is now required to help cover the cost of processing noise exemption requests. There are no other financial considerations as advertisements were placed at the expense of Homestead Land Holdings Limited.

**CONTACTS:**

Kim Leonard, Manager, Licensing & Enforcement	613-546-4291 ext. 3222
Terry Willing, Director, Building & Licensing	613-546-4291 ext. 3240
David Trousdale, Manager, Acquisitions & Corporate Development	613-544-6674 ext. 240
Homestead Land Holdings Limited	

**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Steve Murphy, Manager, Building Services	613-546-4291 ext. 3190
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**EXHIBITS ATTACHED:**

Exhibit "A" - Previous Approved Exemptions  
Exhibit "B" - Objections to Noise Exemption Request  
Exhibit "C" - Public Notification for Application of Noise Exemption

## Previous Approved Exemptions

### Report to Council – August 17, 2004 – Application made by CaraCo Development for 2727 Princess Street

#### Council Resolution

**WHEREAS** CaraCo Development has requested an exemption to By-Law No. 2004-52 Schedule "B", "A By-Law To Regulate Noise", to permit construction of a high rise apartment building located at 2727 Princess Street, and;  
**WHEREAS** the applicant has requested that the exemption cover operations between the hours of 7:00 pm and 9:00pm, and;  
**WHEREAS** the public has been notified and consulted regarding this construction and there are no unresolved objections;  
**THEREFORE BE IT RESOLVED THAT** CaraCo Development be allowed an exemption from the normal 19:00 (7:00pm) to 07:00 (7:00 am) restriction under By-Law No. 2004-52, Schedule "B", in order to allow for construction of a high-rise apartment building from Monday to Friday from 7:00 am to 9:00 pm until March 31, 2005, but not on any weekend or Statutory Holiday.

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### Report To Council – September 19, 2006 – Application made by Homestead Landholdings for 5 Gore Street

#### Council Resolution

**THAT** Homestead Land Holdings be granted an exemption from the normal 19:00 (7 pm) to 07:00 (7 am) restriction under the City of Kingston Noise Control By-Law No. 2004-52 Schedule "B", in order to allow for concrete finishing at 5 Gore Street from Thursday, September 21st, 2006 and continuing until December 29th, 2006 between the hours of 7:00 p.m. and 11:00 p.m. and that such operations will only be carried out when absolutely necessary, and on no more than 1 day within any week, but not on any weekend or Statutory Holiday.

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### Report To Council - October 2, 2007 – Application made by Homestead Landholdings for 135 Ontario Street

#### Council Resolution

**THAT** Homestead Land Holdings be granted an exemption from the normal 19:00 (7pm) to 07:00 (7 am) restriction under the City of Kingston Noise Control By-Law No. 2004-52 Schedule "B", in order to allow for concrete finishing at 135 Ontario Street from Wednesday, October 3rd, 2007 and continuing until Friday, February 29th, 2008 between the hours of 7:00 p.m. and 11:00 p.m. and that such operations will only be carried out one to two days a week but not on any weekend or Statutory Holiday, it being understood that this exemption not be allowed during December 24 to December 31, 2007, inclusive.

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**Report to Council – November 4, 2008 – Application made by CaraCo Development Corporation, for 2753 Princess Street**

Council Resolution

**THAT** CaraCo Development Corporation be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule "B", in order to allow cement finishing at 2753 Princess Street to cover operations between the hours of 7:00 p.m. and 9:00 p.m. from Wednesday, November 5, 2008 and continue only when necessary from Monday to Friday, excluding Statutory Holidays until Thursday, April 30, 2009, it being understood that this exemption not be allowed during December 19 to January 5, 2009, inclusive.

**THAT** clause (1) of report No. 121 of the Chief Administrative Officer (Recommend) be amended by adding the following thereto:

**THAT** this activity be permitted only for 20 days during that period; and

**THAT** CaraCo Development Corporation provide the City of Kingston through the Manager, Licensing and Enforcement Division, 48 hours notice before the pouring of concrete, in order to allow staff the opportunity to notify the district councillor."

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**Report to Council – July 15, 2009 – Homestead Land Holdings Limited - Application for Noise Exemption**

Council Resolution

**THAT** Homestead Land Holdings Limited 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 finishing only on a high rise apartment building at 144 Barrett Court for operations between the hours of 7:00 p.m. and 9:00 p.m. from Wednesday, July 15th, 2009 and continue only when necessary from Monday to Thursday, excluding Statutory Holidays until Thursday, December 18, 2009;

-and further-

**THAT** this activity be permitted only for 25 days during the exemption period and that Homestead Land Holdings Limited provides the City of Kingston through the Manager, Licensing and Enforcement Division, 48 hours notice before the pouring of concrete, in order to allow staff the opportunity to notify the district Councillor;

-and further-

**THAT** Homestead Land Holdings Limited provides notification to the Property Manager of 115 Barrett Court being Deerfield Condominium, 48 hours before the pouring of concrete.

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**Report to Council – July 15, 2009 – CaraCo Development Corporation - Application for Noise Exemption**

Council Resolution

**THAT** CaraCo Development Corporation be granted an exemption from the normal 19:00 (7p.m.) to 07:00 (7a.m.) restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule "B", in order to allow concrete finishing at 2753 Princess Street to cover operations between the hours of 7:00 p.m. and 9:00 p.m. commencing on Wednesday, July 15<sup>th</sup>, 2009 and continuing only as necessary from Monday to Thursday, excluding statutory holidays, until Monday, November 2, 2009,

- and further –

**THAT** this activity be permitted only for 20 days during the exemption period and that CaraCo Development Corporation provides the Manager, Licensing and Enforcement Division, 48 hours notice before the pouring of concrete, in order to allow staff the opportunity to notify the district councillor.

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**Report to Council – December 21, 2010 – Homestead Land Holdings Limited - Application for Noise Exemption**

Council Resolution

**THAT** Homestead Land Holdings Limited be granted an exemption from the normal 19:00 (7pm) to 07:00 (7 am) restriction under the City of Kingston Noise Control By-Law 2004-52 Schedule 'B' Item 1, in order to allow for concrete finishing only on a high rise apartment building at 151 Barrett Court for operations between the hours of 7:00 p.m. and 11:00 p.m. from Wednesday, December 22, 2010 and continuing only when necessary between Monday and Friday, excluding Statutory Holidays until Friday, May 27, 2011, and;

**THAT** this activity be permitted only for 20 days during the exemption period and that Homestead Land Holdings Limited provides the City of Kingston through the Manager, Licensing and Enforcement Division, 48 hours notice before the pouring of concrete, and;

**THAT** this exemption for concrete finishing will not be applicable from December 24, 2010 to January 3, 2011.

**OBJECTIONS TO HOMESTEAD LANDHOLDING NOISE EXEMPTION REQUEST**

From: Linda Prest  
Sent: April 29, 2012 2:19 PM  
To: Leonard, Kim  
Subject: Application of Homestead Land Holdings Ltd. for an exemption to Noise Control By-Law 2004-52 Schedule B to permit concrete finishing on a high rise apartment building at 725 Highway 15

I am strongly against this exemption being granted. I live in one of the nearby residential neighbourhoods and would be personally adversely affected. I realise that construction has to involve noise but that is already generously allowed from 7 a.m. to 7 p.m. six days a week. I believe that everyone which of course includes young children, should be allowed to sleep at night and not wait until midnight for quiet, and also be allowed to relax and enjoy their summer evenings. I hope that consideration for families health and well-being will cause this application to be denied.

Linda Prest

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**From:** Malcolm Prest  
**Sent:** April 29, 2012 7:58 PM  
**To:** Leonard, Kim  
**Subject:** Residents live here

I object to the application made by Homestead in seeking permission to work between 7 00pm and midnight.

This is a high density residential neighborhood that does not need noise pollution from this construction site at these late hours of the night. Homestead needs rethink its strategy. Maybe they should have empathy for the families living in the vicinity of the construction site during the day, now they want to build till midnight, something amiss here.

There is no explanation in the application why Homestead desperately needs to build this unit with such haste? Alas they expect the local residents to suffer.

Regards  
Mr Prest.

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

10 May 2012

Dear Ms. Leonard,

Homestead Land Holdings Limited has yet again made application for an exemption to Noise Control Bylaw 2004-52 Schedule "B" to permit concrete finishing on a new high rise apartment at 725 Highway 15. The exemption would allow Homestead to extend the normal hours of construction, as stated in the Bylaw, 7:00 a.m. to 7:00 p.m. to the hours of 7:00 a.m. to midnight from Monday to Friday, June 25 to November 23, 2012.

The approval of the above-mentioned application would allow Homestead to increase the daily construction noise from twelve to seventeen hours! Are not Bylaws implemented by our municipality for the well-being of our community? The area residents are presently subjected to twelve hours of incessant construction noise (sirens, blasting, explosions, drilling, cranes, beeping, etc) six days a week. We have had to endure interminable construction noise by Homestead for over three years. During this period, we have not had the "luxury" of peace and quiet. The excessive and continuous construction noise has had a substantial negative impact on our community. It has invaded our privacy and considerably limited quality time at home. Is it reasonable or justifiable to allow further unnecessary stress to our community by adding another five hours daily to the twelve hours of construction noise that we are presently subjected to? When did it become the norm to expect city taxpayers to accept that the tranquility and quality of life of their communities are controlled by affluent builders? Do we not have a voice? When will the City of Kingston pay attention and really listen to those residents who live in the affected areas instead of the so called "experts in the field" who quote studies and ramble off "decibels" as though any of that diminishes the impact and intrusiveness of the noise? It is very difficult to believe that a prominent, experienced builder, like Homestead, does not have the capability to properly plan and schedule the concrete finishing within the hours permitted under the Bylaw.

Regardless of popular opinion that our concerns and objections submitted to the City of Kingston do not influence the outcome, I am still hopeful that our voices will make a difference. Therefore, with due respect, I appeal to the City of Kingston to **DECLINE** the above-mentioned application by Homestead Land Holdings

Sincerely,

Cristina Duchesneau  
703-115 Barrett Court  
Kingston K7L 5H6

**From:** June Fransblow  
**Sent:** May 10, 2012 11:51 PM  
**To:** Leonard, Kim  
**Subject:** noise exemption

May 10 2012  
Dear Ms. Leonard,

"Homestead Land Holdings Limited made an application for exemption to Noise Control By-Law 2004-52 Schedule "B" to permit concrete finishing for a new building at 725 Highway 15. The exemption would allow Homestead to extend the hours of construction to from 7:00 pm to 12:00 midnight, as required from July to October.

This email is to express my strong opposition to this approval. If the application is approved the noise will add stress and affect our quality of life. The by-law is there to protect the citizens so I am asking that the City NOT approve the above mentioned application by Homestead Land Holdings.

Sincerely,

J. Fransblow  
Resident, Deerfield Condominium.

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**From:** Norma Kearns  
**Sent:** May 9, 2012 11:50 AM  
**To:** Leonard, Kim  
**Subject:** noise control

Kim I do not agree with the Noise Control By-law 2004 being changed or with the maximum of 25 occurrences they are asking for. From June 25, 2012 to Nov 23, 2012.

Norma and Ralph Ross  
702-115 Barrett Court,  
Kingston, Ontario

**From:** Trevor Clarke  
**Sent:** May 11, 2012 2:59 PM  
**To:** Leonard, Kim  
**Subject:** Holmstead application By-law 2004-52 sched. B. 725 Hwy. 15

Please record my objection to granting an exemption to Holmstead in respect of By-law 2004-52 Schedule B at 725 Hwy 15.

The proposed construction is too close to 115, Barrett Court and noise after 7pm will be intolerable. Holmstead knew of the existence of the by-law when applying for the construction permit and could/should have scheduled construction accordingly so that the work-day could cease by 7pm each day. It is apparent that this is the modus operandi with Holmstead judging by past actions and the City must surely be aware of such anti-social taken by them and take the appropriate steps to prevent this from happening now and in the future.

Trevor Clarke  
901-115, Barrett Court  
Kingston. K7L 5H6

Friday, May 11 2011 @3.00pm

**ADVERTISEMENT IN THE KINGSTON WHIG STANDARD – APRIL 24, 2012**

Public Notice Section

**Noise Exemption**

Homestead Land Holdings Limited has made application for an exemption to Noise Control By-Law 2004-52 Schedule "B" to permit concrete finishing only on a high rise apartment building at 725 Highway 15. The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and midnight.

Construction is scheduled to commence on Monday, June 25, 2012 and continue only when necessary from Monday to Friday, excluding Statutory Holidays until Friday, November 23, 2012 for a maximum of 25 occurrences.

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 4:30 p.m. on Friday, May 11<sup>th</sup>, 2012 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 June 19, 2012.

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