



**City of Kingston  
Report to Council  
Report Number 15-218**

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**To:** Mayor and Members of Council  
**From:** Lanie Hurdle, Commissioner, Community Services  
**Resource Staff:** Paige Agnew, Director, Planning, Building & Licensing Services  
**Date of Meeting:** May 5, 2015  
**Subject:** Homestead Land Holdings - Request for Noise Exemption – 745 Highway 15

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**Executive Summary:**

Homestead Land Holdings has applied for an exemption to the Noise Control By-Law to permit concrete finishing only on a 14 storey high rise apartment building at 745 Highway 15. The applicant has requested the exemption to cover operations between the hours of 7:00 p.m. and 11:00 p.m. Concrete finishing is scheduled to commence on May 6, 2015 and would continue only when necessary from Monday to Friday, excluding Statutory Holidays, until Friday, January 29, 2016 for a maximum of 25 nights.

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 received 3 written objections and as a result are recommending limitations on the number of occurrences and restricting them to one day per week. It is recognized that this will not completely resolve the objections but staff provide the following recommendations as the most reasonable approach to providing more intensification while balancing the interests of neighbours.

**Recommendation:**

**That** Homestead Land Holdings be granted an exemption from the normal 7:00 p.m. to 7:00 a.m. restriction under Schedule “B” of By-Law 2004-52, ‘A By-Law to Regulate Noise’, in order to allow for concrete finishing only on a high rise apartment building located at 745 Highway 15 for operations between the hours of 7:00 p.m. and 11:00 p.m. from May 6, 2015 and continuing, only when necessary, from Monday to Friday, excluding Statutory Holidays, until Friday, January 29, 2016; and

**That** this activity be permitted only for a maximum of 25 nights during the exemption period; and

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**That** Homestead Land Holdings provides the City of Kingston, through the Manager, Licensing & Enforcement Division, 48 hours' notice before the concrete finishing work is to be performed; and

**That** this exemption for concrete finishing will not be applicable between December 24, 2015 and January 3, 2016; and

**That** this exemption be limited to not more than one day per week.

**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

**Lanie Hurdle, Commissioner, Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Gerard Hunt, Chief Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Cynthia Beach, Corporate & Strategic Initiatives	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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**Options/Discussion:**

Homestead Land Holdings has made application for an exemption to Noise Control By-Law 2004-52 Schedule "B" to permit concrete finishing on a 14 storey high rise apartment building located at 745 Highway 15. A map showing the location of the apartment building is attached as Exhibit A. The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and 11:00 p.m.

Homestead has confirmed that they sent out a general information construction notice in late February to all residents of 725 Highway 15 which is the closest apartment building to the construction site. This notice informed the residents that Homestead would be applying for a noise by-law exemption for the concrete finishing work.

Homestead has confirmed that this noise exemption will only be required for a maximum of 25 nights and staff are recommending that no more than one occurrence 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 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.

Staff have confirmed that there have been nine applications for noise exemptions for high rise buildings between 2003 and 2015. Previous approvals for noise exemptions have been granted through Council and the resolutions are attached as Exhibit B. The Building Division has confirmed that there have been nine permits issued over the same period for high rise buildings similar to the subject property, including one building that was the subject of two requests, so every building of this nature 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 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 this request are attached as Exhibit C. Staff are recommending approval of this noise exemption on the basis that the incidents are restricted under the proposed approval to no more than 25 days over the period of May 6, 2015 to January 29, 2016 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. This must be considered in trying to balance neighbours' concerns regarding noise in areas of intensification.

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**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 to this report at Exhibit B.

The authority to authorize such exemptions is specifically granted to Council under Subsection 129 (3) of 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 as was the case a few years ago.

**Notice Provisions:**

An advertisement of this request for noise exemption was placed in the Kingston Whig Standard on Tuesday, March 17, 2015 (Exhibit D).

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:**

Not applicable

**Financial Considerations:**

A \$116.00 fee was received 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.

**Contacts:**

Paige Agnew, Director, Planning, Building & Licensing Services 613-546-4291 extension 3252

Kim Leonard, Manager, Licensing & Enforcement 613-546-4291 extension 3222

**Other City of Kingston Staff Consulted:**

Not applicable

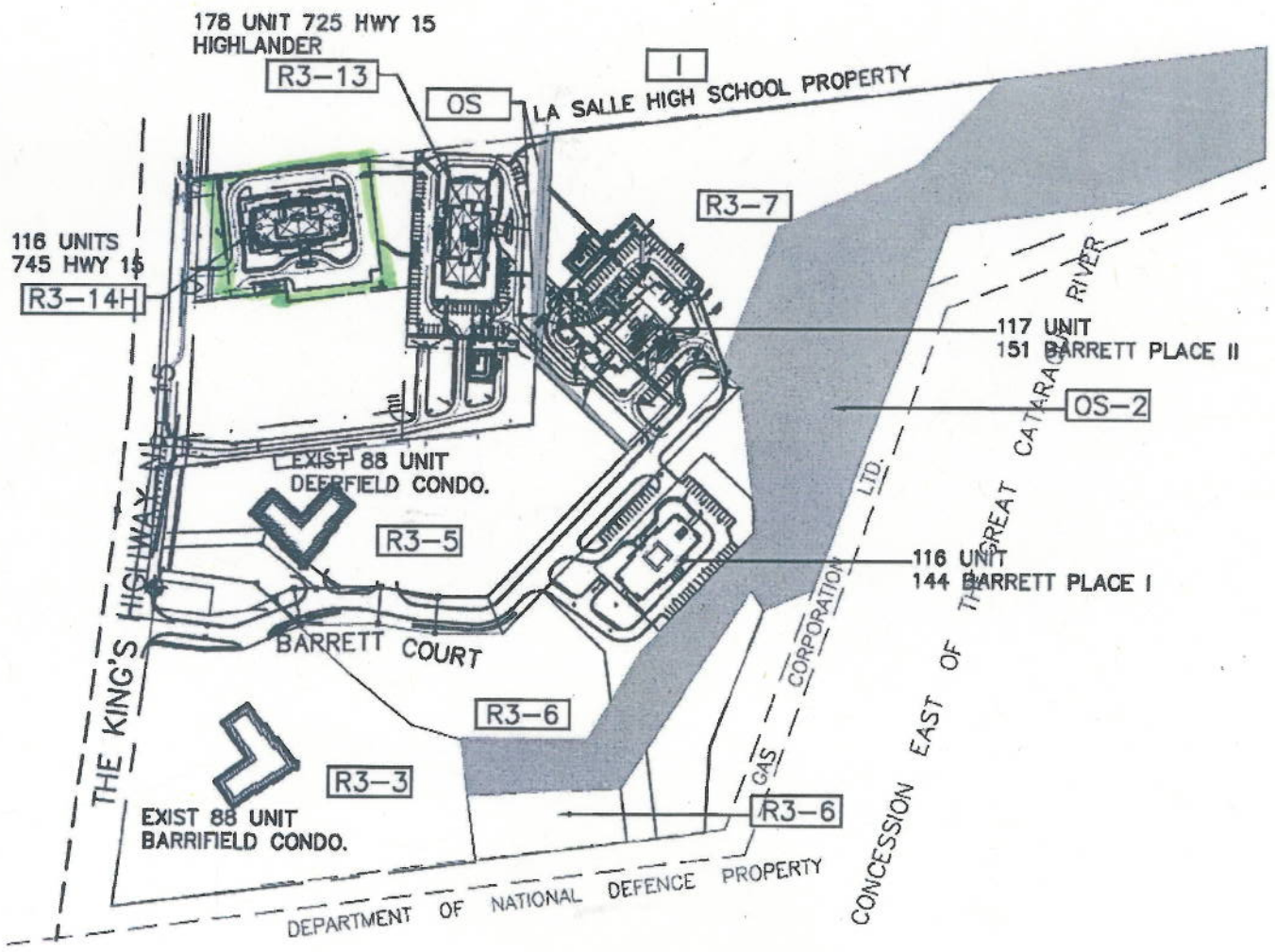
**Exhibits Attached:**

Exhibit A Location of Apartment Building

Exhibit B Previous Approved Exemptions

Exhibit C Objections to Noise Exemption Request

Exhibit D Public Notification for Application of Noise Exemption



## Previous Approved Exemptions

### **1. 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.

### **2. 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.

### **3. 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.

#### **4. 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.”

#### **5. Report to Council – July 15, 2009 – Homestead Land Holdings Limited - Application for Noise Exemption - 144 Barrett Court**

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.

**6. Report to Council – July 15, 2009 – CaraCo Development Corporation - Application for Noise Exemption - 2753 Princess Street**

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 15th, 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.

**7. Report to Council – December 21, 2010 – Homestead Land Holdings Limited - Application for Noise Exemption - 151 Barrett Court**

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.

**8. Report to Council – June 19, 2012 – Homestead Land Holdings Limited – Application for Noise Exemption - 725 Highway 15**

Council Resolution

**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



**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.

**9. Report to Council – September 24, 2013 – Homestead Land Holdings Limited – Application for Noise Exemption – 58 Leroy Grant Drive**

Council Resolution

**That** Homestead Land Holdings Limited be granted an exemption from the normal 19:00 (7:00 p.m.) to 07:00 (7:00 a.m.) 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 58 Leroy Grant Drive for operations between the hours of 7:00 p.m. and 12:00 midnight from Wednesday, September 25, 2013 and continuing only when necessary between Monday and Friday, excluding Statutory Holidays, until Friday, March 28, 2014; and

**That** this activity be permitted only for 26 individual 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 concrete finishing work is to be performed; and

**That** this exemption for concrete finishing will not be applicable between December 24, 2013 and January 3, 2014; and

**That** this exemption be limited to not more than one day per week.

City of Kingston  
Kim Leonard, manager, licensing and enforcement  
216 Ontario Street  
Kingston ON K7L 2Z3

March 21, 2015

Dear Ms. Leonard

Homestead Land Holdings Limited has made application for an exemption to Noise Control By-Law 2004-52 Schedule "B" to permit concrete finishing on a 14-storey high-rise apartment building located at 745 Highway 15. The exemption would allow Homestead to extend the hours of construction to 11 p.m., as required, Monday to Friday, May 6, 2015 to January 29, 2016.

I am strongly opposed to the approval of the above-mentioned application. The residents of the Deerfield and Barriefield Condominiums have been subjected to more than enough noise within the last eight years. During the construction of three 14-story apartment buildings on Barrett Court, we have been subjected to twelve and fourteen hours of construction noise (explosions, drilling, cranes, beeping of vehicles, etc.) six days a week.

The City of Kingston's Official Plan states that the quality of life and well being of its residents is a top priority. Why then, would our elected representatives allow a builder to be exempted from a by-law that was put in place to protect the citizens that they represent?

I am convinced that Homestead, with proper planning could schedule the concrete finishing within the hours permitted under the By-Law. I respectfully request that "**our**" City of Kingston, give this matter serious consideration and **not** approve the above-mentioned application by Homestead Land Holdings.

Sincerely

Cristina Duchesneau  
703-115 Barrett Court  
Kingston ON K7L 5H6

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**Subject:** Proposed Noise Bylaw Exemption

Original Message

From: Laurie Weaver <[llw.wea181@gmail.com](mailto:llw.wea181@gmail.com)>

Sent: Monday, March 23, 2015 6:43 PM

To: Leonard, Kim

Subject: Proposed Noise Bylaw Exemption

Kim,

I wish to express my objection to the proposed exemption of the Noise Control Bylaw by Homestead Land Holdings.

As a resident of 115 Barrett Court, living on the north side of the building, the construction of yet another highrise building affects me directly.

We have endured 3 highrise buildings being built in this area over the past few years. The noise, heavy equipment, blasting, dust, etc. that has taken place with the construction of these buildings has been difficult to live with. Not to mention the increase in traffic. I cannot express enough how difficult it has been. My view will now be a concrete building, decreasing my property value.

I realize I have no say in the 2 new highrise' being built, but I do object very strongly to any noise exemption.

Respectfully

Laurie Weaver

511-115 Barrett Court

Kingston

Sent from my iPad

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**Subject:** Noise Control By-law Exemption

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**From:** Tricia Walker <[tricia.walker@live.com](mailto:tricia.walker@live.com)>

**Sent:** Tuesday, March 24, 2015 6:59 PM

**To:** Leonard, Kim

**Subject:** Noise Control By-law Exemption

24 March 2015

I wish to OPPOSE granting Homestead an exemption to Noise Control By-law 2004-52 Schedule B with regard to concrete finishing at 745 Highway 15, planned for May. I strongly believe that 7:00pm is quite late enough for nearby residents to put up with any type of construction noise and should not be extended. I live next door to and overlook 745 & 735 Highway 15 and am already party to full day noises now that work has begun.

Tricia Walker  
The Deerfield  
411-115 Barrett Court  
Kingston, ON.  
K7L 5H6  
Tel. 613-531-8036.  
[tricia.walker@live.com](mailto:tricia.walker@live.com)

**Public Notice Section**  
**Request for Noise Exemption**

Homestead Land Holdings has made application to Noise Control By-Law 2004-52 Schedule "B" to permit concrete finishing on a 14 storey high rise apartment building located at 745 Highway 15. The applicant has requested that the exemption cover operations between the hours of 7:00 p.m. and 11:00 p.m.

The exemption period would commence on May 6, 2015 and would continue only when necessary from Monday to Friday, excluding Statutory Holidays, until Friday, January 29, 2016 for a maximum of 25 nights.

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 March 27, 2015 to:

City of Kingston	Phone: 613-546-4291 ext 3222
Kim Leonard, Manager, Licensing & Enforcement	Fax: 613-542-1332
216 Ontario Street	Email: <a href="mailto:kleonard@cityofkingston.ca">kleonard@cityofkingston.ca</a>
Kingston, ON K7L 2Z3	Located at: 216 Ontario Street

This matter will be considered during the regular Council meeting that commences at 7:30 p.m. on May 5, 2015.

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](mailto:kleonard@cityofkingston.ca).