

Submission to the Planning and Environment Committees

RE: Proposed Tree Protection By-law, August 22, 2016 meeting

I am a Registered Professional Forester who has sat on the City of London's EEPAC and TFAC committees. I also write tree preservation reports and silvicultural prescriptions for clients in London and surrounding areas.

I have reviewed the proposed Tree Protection By-law and while I can see the positive intent in this By-law, I also have some serious concerns.

I may be out of town on August 22, 2016, so I am e-mailing this submission to you.

I will keep my comments brief by only dwelling on my concerns.

Overall

Distinctive Trees

"Distinctive" trees should be removed from the proposed By-law.

These so-called "distinctive" trees are generally older and larger trees that are in decline (i.e. unsafe, whether visibly or not). Decline often occurs over a period of years and that decline is also hidden as internal decay. Larger trees do have the benefits that are listed in your Staff report, but that is not the complete story.

I work with larger trees. In a rural setting, falling branches, sudden collapse, uprooting, etc. that are associated with decline are often not a serious issue. On residential properties, however, they can cause death, injury, and considerable damage to personal and neighbouring properties. Breakage can happen without warning. (Just look at the breakage that occurs in Springbank Park after a storm.)

As a past owner-operator of an urban tree service in London and area, it was my experience that people generally did not want to remove their large trees, but they were afraid of what those trees were doing or could do.

Large trees are usually removed due to homeowner fear. How can a permit acceptance or denial allay those fears?

Large trees can also cost thousands of dollars to remove so a typical residential tree owner has to think seriously before calling a tree service.

Respect for Homeowners

Just because some other municipalities disrespect homeowners by thinking that they cannot manage their own trees on their own properties, it does not mean that London has to show that same disrespect.

This lengthy and sometimes confusing (too detailed) By-law will also intimidate the typical homeowner who already has to deal with the costs and stigma of removing any tree.

The decision to remove any residential tree, "Distinctive" or otherwise, should be the sole responsibility of the tree's owner(s).

All residential trees should be removed from the proposed By-law.

Look around the City as it is now. There is no wholesale removal of trees. I do not see what is broken and I do not see what needs to be fixed with this proposed By-law.

Costs to Taxpayers

I work with City tree staff. They are already fully utilized.

Tree removal in hazard lands and wetlands are already protected under the Conservation Authorities Act.

Trees on a new development site are already covered under the Planning Act.

Species at Risk trees are already covered under the Endangered Species Act.

I question why the City wants to pay to do others' work. I question why the City wants to add redundant workloads to its staff. The result will be a need to increase our tax load to pay for new redundancy staff.

Municipal Act and Fees

The By-law's preamble cites several sections of the Municipal Act, but omits Section 394 (e) which states:

Restriction, fees and charges

394. (1) No fee or charge by-law shall impose a fee or charge that is based on, is in respect of or is computed by reference to,

(e) the generation, exploitation, extraction, harvesting, processing, renewal or transportation of natural resources. 2001, c. 25, s. 394 (1); 2006, c. 32, Sched. A, s. 166.

While Section 391 (3) allows for an administration fee, that fee is to be part of a fee or charge. Actions covered in 394 (e) cannot have a fee or charge, so there should not be an administration fee either.

The existing By-law also has fees that have not been challenged so far.

Definition of a Tree

I am not sure why the definition of a tree includes dead trees. Dead trees should be clearly excluded in the definition of a tree. It should be as clear as possible that a permit should not be needed or sought to take down any dead tree. Instead, it should be encouraged where safety could be an issue. I have had friends injured or killed by dead trees and dead tree parts.

Communication and Education

Once this By-law is approved, communication and education will be focused on keeping homeowners in line. Instead of spending to enforce, the City of London could be spending to promote homeowner tree-related responsibilities.

It is my experience that the public already cares about trees. They need to know how to best maintain a tree and what to look for in terms of disease, potential breakage, etc.

Conclusions

Keep the existing tree By-law with the following amendments:

1. Remove the fees,
2. Remove references to basal area measurements. Basal Area measurement has been found to be an "inexact process" in Court.
3. There is an insignificant number of wooded areas that are not covered under the present By-law. It is my experience that such areas get cleared when there is a threat of punitive By-laws. You can best protect these wooded areas by stepping back and letting the owners continue the responsibility.



Jack Winkler
Registered Professional Forester
August 19, 2016