

July 2020

To all CPSC and City Council members:

The City of London is in desperate need of a new by-law that will protect individuals from being video recorded in the privacy of their own private residential backyards. The right to privacy in one's own backyard is imperative considering it is one of the last places of sanctuary we have from being monitored and video recorded in our ever increasingly digital world where video cameras are ubiquitous.

Video cameras have the capacity to monitor 24 hours a day, 7 days a week. They can record, be activated by motion and audio sensors, and can see using night-vision. The content recorded can be live-streamed and/or widely distributed on multiple digital platforms without prior knowledge or consent from the party being recorded.

My backyard neighbour has recently installed numerous video surveillance cameras in and around his home, including one in his backyard just under the roof line of his two storey home. It has the capacity to overlook my entire backyard. This neighbour has declined my requests to remove this backyard video camera. Other neighbours' requests have also been declined. He claims that this backyard camera was installed to monitor his shed. He argues that protecting his shed is more important than the community's right to privacy in their own backyards.

I contacted the City of London by-law office to inquire about any by-laws that would protect my rights in this privacy matter. The City of London has a Fortifications By-Law that briefly touches on video recording and privacy, however after corresponding with the chief by-law officer for the City of London, Orest Katolyk, he explains that "This (fortification) bylaw was put in place several decades ago to deal with fortification around biker houses. As security technology for single-family homes evolved, we correctly determined that the fortification bylaw was not the proper tool to use to address issues such as yours."

I then spoke with a City of London Police Department constable who explained to me that the act of installing video surveillance equipment on residential homes does not in-and-of itself constitute a privacy or nuisance violation, as it cannot be immediately shown to be for the purpose of voyeurism.

I finally took the matter to small claims court. At a mandatory settlement conference, the presiding judge stated his opinion that he believed no criminal offence has been committed by installing video surveillance equipment, including the backyard camera.

Therefore, there is no reasonable form of recourse for the citizens of London to protect themselves from unwanted and unwarranted video surveillance, even in the privacy of their own backyards.

The City of Hamilton has been a leader in this area and has been highly praised for their implementation of a video surveillance privacy by-law. The basic foundation of their by-law is that no residential video cameras are allowed to point in any public direction, and by extension prohibits pointing cameras toward private residential spaces. It can be easily enforced by the Hamilton by-law office via external observation of a residence; no entrance into a home is required, and no police presence is necessary. The City of Hamilton council members have also pushed back on police requests to make all video surveillance footage available to them at any time, in keeping with the core purpose of protecting citizens' right to privacy. The by-law also disallows the use of cameras that conceal or

obfuscate the direction in which the camera lens is actually pointing, specifically domed cameras and the like.

As reported by The Hamilton Spectator in an article dated January 17, 2019, the City of Hamilton continues to uphold their privacy by-law. Since 2012 hundreds of Hamilton residents have utilized this by-law to help protect their basic right to privacy. The City of Hamilton has proven that a robust, easy to enforce privacy by-law is achievable and necessary to protect its citizens. In this Hamilton Spectator article, Ontario's privacy commissioner, Brian Beamish stated that he is "pleased by (Hamilton) council's decision, adding he thinks other cities should use the by-law as a 'blueprint.'" Beamish also stated; "In my view, the bylaw strikes a good balance between homeowner security and the privacy of the public. Individuals have the right to go about their daily lives with a reasonable expectation of privacy." To view this article see addendum or visit: <https://www.thespec.com/news/hamilton-region/2019/01/17/hamilton-to-keep-bylaw-ban-on-security-cameras-facing-the-street.html>

I hereby request the creation of a new City of London by-law that addresses residential video surveillance in an effort to protect our citizens' basic right to privacy. It is vital for the health and well-being of all citizens of the City of London. A by-law addressing these issues is long overdue.

Thank you,

David Johnstone