

Report to Community and Protective Services Committee

To: CHAIR AND MEMBERS
COMMUNITY & PROTECTIVE SERVICES COMMITTEE
From: GEORGE KOTSIFAS, P, ENG.
MANAGING DIRECTOR, DEVELOPMENT & COMPLIANCE SERVICES &
CHIEF BUILDING OFFICIAL
Subject: SECURITY VIDEO CAMERAS ON PRIVATE RESIDENTIAL PROPERTY
Date: APRIL 20, 2021

Recommendation

That, on the recommendation of the Managing Director, Development and Compliance Services and Chief Building Official, this report on the use of residential security cameras **BE RECEIVED** for information purposes.

Executive Summary

Concerns were raised by a citizen about video cameras on a neighbouring property directed at their property. Staff surveyed other Canadian municipalities and found that municipalities do not have by-laws to address residential security camera use and that these security devices, on their own, do not constitute excessive protective elements normally associated with fortification by-laws.

Linkage to the Corporate Strategic Plan

To improve regulatory processes – implement a review of by-laws with a risk-based protocol focussing on municipal purposes.

Analysis

1.0 Background Information

- Community and Protective Services Committee - on July 21, 2020 Municipal Council resolved: That the communication, dated July 2020, from D. Johnstone, with respect to a by-law to protect individuals being video recorded in their own private residential backyards **BE REFERRED** to the Civic Administration for review and a report back at a future meeting with a delegation from D. Johnstone at that time. This report addresses that resolution

2.0 Discussion and Considerations

City of London Fortification By-law

On November 18, 2002 Council adopted a by-law to regulate the fortification of premises. The By-law was approved under Section 217 of The Municipal Act permitting municipalities that are responsible for the enforcement of The Building Code Act to regulate in respect of the fortification of premises.

Stakeholder consultations were held with the Chamber of Commerce, Urban League, London Chapter of the Canadian Alarm and Security Association (CANASA) and London Police Service and a public meeting was convened on November 11, 2002. No public attended.

The By-law was created to be applied to premises related to organized crime to allow access for municipal and law enforcement officials and/or emergency services personnel necessary for the health, safety, and welfare of the inhabitants. The By-law defines “excessive fortification and protective elements” which restricts, obstructs or impedes access to, and exit from lands buildings and structures.

Under the By-law “excessive fortification” can include: devices, barrier or material, metal plaques or plates, observation towers, bullet proof laminated glass, armored reinforced doors, metal grills or bars, masonry over windows or entryways, secondary walls in front of landings, doors or windows, concrete or metal barriers and/or any fence or gate over 3 mm or thicker. “Excessive protective elements” under the By-law include: perimeter warning devices

("laser eyes"), electrified fence or any other deterrent that would injure, and, visual surveillance equipment including video cameras, night vision systems or electronic surveillance listening devices capable of permitting either stationary or scanned viewing or listening, beyond the perimeter of the land.

Section 3.1 (h) of the By-law notes an exemption clause for "a lawfully permitted private dwelling where the nature of the lawful use of the dwelling necessitates particular elements of excessive fortification or excessive protective elements, but only to the extent necessary having consideration for the nature of such use." Under this clause video cameras alone could be permitted if the use was warranted for security purposes.

Evidence of a Violation

In response to residential security camera complaints, in 2017, Municipal Law Enforcement Officer's (MLEOs) consulted with London Police Service and both agreed they would no longer be taking complaints of surveillance camera disputes between neighbours. Prior to 2017, MLEOs would investigate these types of complaints. Knowing that MLEOs could not lawfully demand admittance to a dwelling unit to view the video feed and would unlikely be successful in obtaining a search warrant to investigate an alleged by-law violation, MLEOs would ask for screenshots showing the camera views. Further, even if access to the video feed was provided, the orientation of the camera could be changed immediately after any planned inspection. Given today's security technology, including the size of the camera (i.e. doorbell camera) it is difficult, if not impossible, to determine from an exterior property inspection where the camera is pointed, as many cameras have pan, tilt and rotate options. Complainants contacting the City are currently advised that this is a civil matter between two property owners. The matter would only be referred to London Police Service if there was an indication of a criminal matter (such as possible voyeurism or involvement of children).

Municipal Review

To determine whether this issue has been successfully addressed in other Canadian municipalities, staff surveyed By-law Enforcement Departments in Toronto, Hamilton, Ottawa, Windsor, Whitehorse YK. and St. John's NFLD. All surveyed municipalities responded that this issue is not addressed by any applicable by-laws for security cameras on private residential property.

Hamilton indicated they also have a By-law to "Prohibit and Regulate Fortification and Protective Elements of Land", similar to London, that includes video camera regulations. Recently, they had an issue raised with doorbell cameras and determined that they are not "excessive" but rather are a reasonable means of security and are therefore exempt under the By-law.

This report was prepared in consultation with London Police Service, and City service areas including legal and corporate security.

Conclusion

Concerns were raised by resident about video security cameras on a neighbouring property directed at their property. Municipal staff surveyed Canadian municipalities and found no by-laws specific to security cameras in residential premises. If a citizen feels that a security camera is pointed at their residence for the purposes of voyeurism or other criminal matters, London Police Service could determine if an investigation is warranted.

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