



Township of
North Dundas

PLANNING, BUILDING AND ENFORCEMENT DEPARTMENT

To:	Mayor and Members of Council
Prepared by:	Greg Trizisky
Date of Meeting:	September 13, 2011
Subject:	Special Report - Administration of Part 8 of the Building Code

On August 3, 2011 municipalities in eastern Ontario received a letter from the Eastern Ontario Health Unit. In this letter Dr. Paul Roumeliotis informed the municipality that as of January 1, 2012 the Health Unit will no longer be administering Part 8 of the Ontario Building Code. The result of that decision is that each municipality will once again be responsible for administering Sewage Systems within its boundaries.

History

Prior to 1998 private sewage systems under 10,000 litres were administered by the Eastern Ontario Health Unit via contractual agreement with the Ministry of the Environment through regulations passed under the Environmental Protection Act and the Water Resource Act. In amending legislation creating the 1997 Building Code, sewage systems were removed from the responsibility of the MOE and given to municipalities. The Building Code was written to allow municipalities to subcontract back to Health Units or Conservation Authorities to administer and enforce sewage systems regulations (Part 8 of the OBC) within their jurisdiction. Most municipalities used this new power under the Building Code Act to maintain the status quo and entered into agreements with the Eastern Ontario Health Unit to essentially continue to manage sewage system permits (known as the Part 8 program) and inspections. The EOHU has been responsible for sewage systems since 1972 and argued favourably in 1998 to maintain providing those services for municipalities. Another organization which was providing inspection services to surrounding areas were the South Nation Conservation Authority, and were also interested in 1998 in providing a program for municipalities. The EOHU had historically contracted out review and inspection services while maintaining the administration for the "Part 8" Program and has continued to do so to the present time with the SNCA as their delivery agent.

Following Justice O'Connor's report of the Walkerton Inquiry, the Building Code was amended again in 2010 with respect to Sewage Systems under Part 8 to include

mandatory inspections of existing sewage systems within influence areas to be defined by the Source Water Protection Committee. These influence areas will be established for well head protection of large public water sources. Sewage systems must be inspected every five years to determine if they are a "threat" to influence areas defined in Source Water Protection Plans being developed currently by the SNCA. As of the writing of this report the size, shape and locations of these influence areas have not been released by the SWPC but the clock on the five year inspection window has started on January 1, 2011.

Options

On Thursday August 11, 2011 the Chief Building Officials for the SD& G municipalities met and discussed several options available. The options for the municipality are described in the order in which the Chief Building Official's agreed would be best for all the municipalities in SD&G.

Option 1, "the Counties solution;" the municipalities through their Chief Administrative Officers together with the Chief Building Officials meet with County Officials and propose to County Council the establishment of a "Part 8" program responsible for the administration, review and inspections of Sewage Systems for all of SD&G. The program could be administered through all local municipal offices gaining an immediate plus on locality and availability. The program would be identical throughout SD&G and would provide a uniformity equal to the existing program. Control and the implementation policies would stay closer to the local political bodies. Liability which is inherent with sewage systems would be spread over a larger area and less of an impact on each of the smaller tier municipalities. In short, this solution provides for all the benefits of a third party relationship while maintaining some political control over the entire program.

Option 2, "the in house approach;" this was not every CBO's second choice. South Dundas, South Stormont and North Stormont would prefer to go with the conservation authority. However I believe, along with North Glengarry and South Glengarry's CBO, that we can provide a much better service than the "Status Quo." The current Part 8 program has developed into a rigid and restrictive approach over the years that isn't always in the spirit of the objective based Building Codes. As the Health Unit has seen to the administration of this program, the SNCA has acted in a commentary role and as such commentary roles tend to include other agendas and policies not strictly associated with Part 8 of the OBC. The SNCA has limited experience in enforcement strategies and has limited authority on enticing compliance from building practitioners. The "In House" approach would allow us to set up a program that could be administered in conjunction with our Building Permits reducing permit wait times and extra travel outside the municipality.

I believe the number of permits with respect to Sewage Systems would range from 40 to 60 permits, however the work load is much greater than this number represents. There are as many as four inspections with each permit; three of which that are mandatory under the OBC. There are other realities involved with sewage systems such as requests for information and complaints on existing systems that need to be

investigated, commentary on severance applications and mandatory re-inspections of existing systems as mentioned earlier. Experience with our Property Standards By-law shows that there are several inspections and meetings to substantially close a complaint file. These other realities of sewage systems would fit nicely into a program for all by-law services and would allow us to do By-law enforcement directly from North Dundas instead of contracting services through Russell Township. This will allow us to give a better response time on complaints as well as provide follow up services. While the indirect costs of setting up such a department would be largely absorbed by our current activities our direct costs will substantially increase. It is expected that one individual will need to be hired to provide the necessary number of inspections related to By-laws and Building Code. For that reason the fees currently related to sewage systems, by the Health Unit, will not likely decrease but will be needed to offset these direct costs.

Cost Breakdown

Current sewage system fees based on 50 permits ...	32,500.00
Current budgeted value for contracting building inspections...	27,000.00
Current budgeted value for contracting By-law services ...	18,000.00

Total	77,500.00

It is expected that our direct costs would increase by one hundred thousand dollars annually. This means that we could provide a direct service to all rate payers through a more responsive by-law department with a relatively small impact on general taxation; less than 3/4 of a percent. Although the overall cost of option one may have a similar impact through the County levy, the liability impact would be greatly divided.

North Dundas can expect that sewage systems will attract a similar number of "nuisance claims" which the EOHU has received. This will require more staff time and insurance company involvement to refute. Related to this are insurance premiums and legal costs which could raise as our overall value of permits increases.

Option 3, "a contract with the South Nation Conservation Authority;" could be the easiest approach for municipalities to take. The SNCA already has a program in place that will provide an almost "seamless" transition. This option will maintain the status quo for installers and drastically reduce any transition learning curve for those people who are already in the industry. Currently the SNCA is offering (letter attached) to pick up the Part 8 Program at no cost to the municipality and keeping the current rates established by the Health Unit for one year. This service does not provide the Township with a person to investigate complaints nor does it provide for mandatory inspections of existing systems; this would have to be negotiated with SNCA.

Analysis

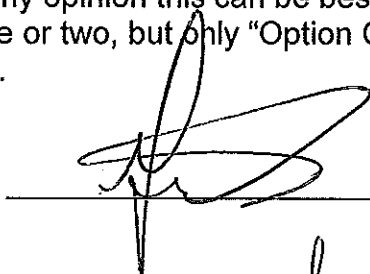
It should be noted that the current program has not performed as well as originally proposed. We have heard a large number of complaints from installers, engineers, and

designers that the our current program is one of the most difficult to work with in Eastern Ontario; of specific mention was lack of communication, inflexibility, inconsistencies and excessive wait times. These are not new issues for Building Departments in general as each department must struggle with the balance between the cost of providing a service, risk management and customer service. However it is noted that in the current contract no avenue exists to lodge complaints and receive feedback. A level of accountability towards customer service has been removed as a result of using a third party.

Summary

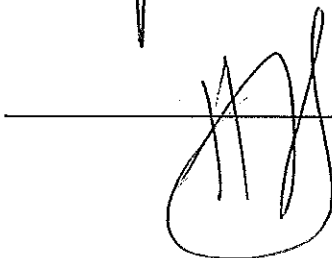
With mandatory inspections on the horizon I believe political oversight will be of utmost importance. Customer service, consistency and communication is much easier to deliver when working on a smaller scale. The balance between good risk management and a system to onerous to function efficiently needs feedback, cooperation and willingness to change. In my opinion this can be best achieved through a "one window approach" using option one or two, but only "Option One" reduces the impact of increased liability and cost.

Report prepared by:



Greg Trizisky, CBCO, CRBO

Reviewed & approved by:



Howard F. Smith, CAO