

October 1, 2020

To Mayor Tory, Members of City Council, and Carleton Grant, Executive Director, Municipal Licensing and Standards, City of Toronto  
Cc: Patricia Landry, Horticulturist, City of Toronto

We are writing to you with our concerns regarding the City of Toronto's grass and weeds bylaw (Chapter 489) and the "natural garden exemption." While we recognize and support the City of Toronto's leadership on biodiversity protection through its Pollinator Strategy and the Biodiversity Strategy, we are concerned that the City effectively undermines this progress by allowing the outdated grass and weeds bylaw (Chapter 489) to persist. With this letter, we urge the City to show real leadership and overhaul this colonial and ecologically retrogressive bylaw that thwarts efforts to support the biodiversity upon which all life depends.

Specifically, ***we ask that the City explicitly facilitate and encourage natural gardens in yards and community-stewarded spaces.*** Instead of enforcing the colonial tradition of lawn by placing barriers in the way of those who choose to deviate from it, the City should facilitate natural gardens that support the diversity of life and ecological functions on which we depend. Natural gardens are well established in both practice and science: they are well understood to provide important benefits to human well-being and ecosystem health. These landscapes are places that celebrate the human connection with nature while providing many ecological and economic benefits that include (for example): improved stormwater management, enhanced infiltration and groundwater replenishment, water conservation and water quality improvement, soil improvement, erosion prevention, wildlife habitat protection and enhancement, and carbon sequestration.

As currently written, Toronto's grass and weeds bylaw (Chapter 489) mandates a 20cm height limit for "grass," a category of plants the bylaw doesn't define. Yet there are more than 12,000 species of grass – a large category of hollow-stemmed, jointed plants. Which species are to be kept at 20cm? The bylaw doesn't specify, and in its silence, is vague and unenforceable. Worse yet, enforcement falls to individual officers who are neither trained in plant identification nor have any guidance from the bylaw. So enforcement is discretionary and arbitrary – and this is ***indefensible and illegal.***

Complicating matters further, the bylaw prohibits "weeds," as defined by the Noxious Weeds List under the Weed Control Act (Ontario Regulation 1096 248/14), which lists 25 specific species. Yet bylaw enforcement officers are not required to have any expertise in horticulture or botany, nor any training in plant identification. For this reason, bylaw officers have no basis for enforcement (in handing out Advisory Notices or Violation Notices) and they can only make their decisions on aesthetics or how plants "look."

Although the bylaw includes a "natural garden exemption," we argue that this is outdated. The exemption process was initiated when natural gardens were rare and unusual. Now that natural gardens have increased steadily as a cultural practice, the requirement for an exemption places

a reverse and unfair burden on natural gardeners to defend and justify their plantings in a process that is intrusive, onerous, costly, disincentivizing, and arbitrary. Yet those who complain to the Bylaw Department (which triggers an investigation) aren't required to identify any problematic species or health/safety issues on which their complaint is based, nor are the bylaw enforcement officers required to name or capable of identifying the problem species. The entire process is intrinsically adversarial: Advisory Notices assert a violation which the natural gardener is then required to disprove.

The exemption is, by its very nature, based on the premise that any deviation from the lawn requires official "approval." Further, the granting of the exemption offers no protection from ongoing complaint, regular inspections and the burden of defence.

It has been almost 25 years since the Ontario Court of Justice ruled (1996) that Sandy Bell's naturalized Toronto garden was protected expression under the Charter.

Twenty-five years later, in the midst of a pandemic, in an ongoing biodiversity crisis, a climate emergency and a reckoning with colonialism, the City continues to place barriers in the way of positive action undertaken by those who deviate from the lawn norm.

If the City's goal is to ensure property maintenance, there are alternative ways to achieve this without punishing those who are engaged in positive action by requiring them to not only conform to an impossibly vague bylaw but then to engage in an adversarial process premised on an assumption of bylaw violation.

We urge the City to convene an advisory panel, comprised of Indigenous land stewards, City staff and other landscape practitioners, to make recommendations on reform of the grass and weeds bylaw and the "natural garden exemption."

This is a time of profound change to "business as usual" and it is precisely the time to ask: How can the City do better by supporting biodiverse landscapes of demonstrable ecological value and human connection to nature?

Yours truly,

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