



## MAKING A PRESENTATION TO VICTORIA CITY COUNCIL

Complete and submit your request to address Council to Legislative Services by 11:00 a.m. on the Wednesday the day before the scheduled meeting. To ensure the Council receives your submission with their full agenda package, please submit it by 4:30 p.m. on the Monday two weeks before the Council meeting. Requests received after this time will be added to the Amended Agenda produced the Wednesday immediately prior to the Council meeting.

Presentations are a maximum of five (5) minutes in duration.

Name: PEGGY ARMSTRONG Date: June 30, 2015

Address: 402-2930 LOOK ST.

I wish to appear at the following Council meeting: July 9, 2015

I represent: \_\_\_\_\_

Topic: BY-LAW INFRACTION and NOISE COMPLAINT (Name of organization, if applicable)

Action you wish Council to take: ENFORCE BY-LAWS

Are you providing any supporting documentation (a letter or a PowerPoint presentation)?

Yes ☒ 10mb limit\* No ☐

If you are providing supporting documentation the documentation **must** accompany this request or your letter. Placement on the agenda cannot be confirmed until supporting documentation has been received. Handouts will not be distributed at the meeting.

\*If presentation is larger, please bring into the Council Secretary on a thumb drive to allow downloading.

Alternatively supporting documentation may be emailed to: [councilsecretary@victoria.ca](mailto:councilsecretary@victoria.ca)

**Please note** that all presentations are held at a public meeting, therefore, the first page of this form, along with the supporting documentation is added to the agenda, which is made available to the public and posted on the City of Victoria's website. The second page of this form, containing your contact information, does not form part of the agenda, but may be released pursuant to the provisions of the *Freedom of Information and Protection of Privacy Act*.

Please complete both sides of the form and submit to:

Council Secretary  
Legislative Services Department  
City of Victoria  
1 Centennial Square  
Victoria, BC V8W 1P6  
T 250.361.0571  
F 250.361.0348  
Email: [councilsecretary@victoria.ca](mailto:councilsecretary@victoria.ca)

402 – 2930 Cook Street  
Victoria, BC V8T 3S7  
July 1, 2015

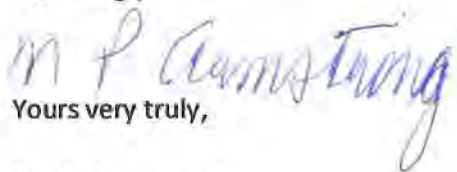
Mayor and Council  
City of Victoria

Attached are copies of letters I have (recently) written to Ben Isitt and (previously) the Bylaw Officer concerning my neighbour, Wayne Lackner, who resides at 1310 Topaz Avenue, and who runs a fence contracting business from his Residential II property. (I once again refer you to your Bylaws, section 6 (1) under Schedule D.) Also attached are three photos illustrating the sort of business in which Mr. Lackner is engaged.

There has been a problem with the amount of noise Mr. Lackner makes as long as I have been resident here, which is ten years. When I most recently spoke to Mr. Lackner concerning the noise, he told me, "I have a business license. Technically, I could be doing this 24/7."

I am a senior citizen with a finite amount of energy, and am not capable of attending City Hall every two weeks to ensure that this matter is being dealt with.

Can I please have your assurance that this matter will be *thoroughly* investigated and dealt with accordingly.

  
Yours very truly,

Peggy Armstrong



**Howard Armstrong**

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**From:** "Howard Armstrong" [REDACTED]  
**Date:** June-12-15 2:54 PM  
**To:** "Ben Isitt" <Ben@isitt.ca>  
**Cc:** "Margaret Nelson" [REDACTED]; "Dave Ward" [REDACTED]  
**Subject:** Re: Six months in review

Hi Ben,

We live on the west side of 2930 Cook Street, and we have a real problem: The man who lives adjacent to our property, on the west side fronting Topaz Avenue (Mr. Lackner), is running a light industrial business (fence construction) from a Residential II property. About once a week, sometimes more often, he will run a power saw which has a loud, high whine, and which he has occasionally run for hours at a time. Today I asked him to stop because it was hurting my ears, and he told me he had a business license and could technically saw all day five days a week. I told him I didn't think so.

This problem has been ongoing for the entire time I have lived here, which is ten years. At first the city told me that Mr. Lackner had a building permit because he was putting an addition on his home. That continued for four years, and I finally asked the city to investigate, because four years is a long time to make an addition to a home. The city told me that Mr. Lackner would be finished "soon", and that he had agreed to do his sawing and planing in his garage, where it would not interfere to the same extent with the enjoyment of his neighbours, and for awhile he did.

For a time the problem seemed to have corrected itself, and then it started again. I contacted the city and was told that the file had been closed.

During the warm weather it is important for us to be able to leave our windows open, both for fresh air and to keep our unit reasonably habitable. It does not seem right to me that a neighbour can interfere to such an extent with our enjoyment of our own home.

How is it possible that, on a Residential II property, a light industrial enterprise can be run without polling the adjacent properties? I note that when an owner applies to have a Residential I property changed to Residential II, the entire area is notified. I have no objection to Mr. Lackner trying to make a living, but I just don't see why he has been allowed to do light industrial work at that location. As I write, Mr. Lackner is once more busily sawing.

Please look into this for me.

Thank you in advance for your time and effort.

Peggy Armstrong

**From:** [Ben Isitt](#)  
**Sent:** Sunday, June 07, 2015 11:42 AM  
**To:** [Howard Armstrong](#)  
**Subject:** Re: Six months in review

Bylaw Officer  
Bylaw and Licensing Services  
1 Centennial Square  
Victoria BC V8W 1P6  
Tel 250.361.0462  
[kmurphy@victoria.ca](mailto:kmurphy@victoria.ca)

**From:** Howard [REDACTED]  
**Sent:** Wednesday, Jun 26, 2013 2:21 PM  
**To:** Bylaw Complaints  
**Subject:** Non-compliant neighbour

Sirs:

For some time now I have been complaining about our neighbour, Wayne Lackner, whose property, located on the northwest corner of Topaz and Summit, abuts our condo property.

Mr. Lackner continues to operate all or part of his fence building business from his property, which is zoned Residential 1. During the summer, when the weather is mild and we need to have the windows open, the noise is often incessant and invasive, during which times we feel as though we are living adjacent to a lumber yard.

Mr. Lackner has been asked, by you, to discontinue his intermittent disruptive behaviour, at which time he agreed to do any sawing, planing, hammering, etc., within the confines of his garage. This he has not done. (At one time Mr. Lackner was ostensibly doing renovations to his property, which lasted for more than four years!)

Aside from the fact that Mr. Lackner is depreciating the value of our condo by operating a light industrial business from a Residential 1 site, his continuing uncooperative behaviour has detrimentally impacted our quality of life. Further, if we have people in, we must hold our conversation over the noise from next door.

We feel that Mr. Lackner's continuing non-compliance with the bylaws deserves a substantial fine. It is obvious that warnings do no good.

Attached are two previous letter I sent to the city, neither of which had any lasting effect. You will note that we have been extremely forbearing, considering that this situation has prevailed for more than eight years.

Please inform us of whom you have designated to deal with this situation, and inform us of the resulting action.

Yours truly,

Mrs. H.R. (Peggy) Armstrong



**To:** Kathleen Murphy  
**Subject:** Re: Case File #34005 - 1310 Topaz

Kathleen Murphy,

One would assume that, in order to get a variance, the immediate neighbours would need to be canvassed. This was not done, and it is surprising to learn of the variance. Nevertheless:

On reading the bylaws on the website, it seems clear to me that the intent of Schedule D is to enable such enterprises as the sale of Tupperware, hair dressing, barbershop, and other types of non-invasive commerce from one's home, and NOT the manufacture of fencing or other types of endeavour that entail the stacking, sawing, hammering and general noise making that occurs with the movement and assembly of lumber and/or other materials.

I draw to your attention Section 6 (1) under Schedule D:

"All uses that are noxious or offensive to any other dwelling units or the general public by reason of emitting odour, dust, smoke, gas, **noise**, effluent, radiation, broadcast interference, glare, humidity, heat, vibration, or hazard or other emission are prohibited." (Emphasis mine.)

There is no reference in the above paragraph to times of day or week, nor is there any exception for light industrial activity, which is actually what occurs at 1310 Topaz. Yes, at times the noise does occur on weekends and holidays, though this weekend seems to be the exception.

It seems inconceivable to me that the city in its wisdom would sanction the use of an owner's property that directly and detrimentally impacts that of its neighbours.

Yours truly,

Peggy Armstrong

----- Original Message -----

**From:** Kathleen Murphy

**To:** 'Howard'

**Sent:** Friday, June 28, 2013 9:37 AM

**Subject:** Case File #34005 - 1310 Topaz

Dear Peggy,

Thank you for contacting Bylaw and Licensing Services with your concerns. I have conducted a thorough investigation of city records and discovered that the property owner at 1310 Topaz St has taken out the appropriate business license for his company, which allows him to operate out of his home.

1310 Topaz is zoned R2 (a variance was granted in 2005 to allow for a duplex), and it looks like the owner is complying to the regulations set out in Schedule D of the Zoning Bylaws – under permitted uses for home occupations allows for "making, processing and assembly of products on a small scale." More details with regards to this or most of the City of Victoria's Bylaws on our website at:  
<http://www.victoria.ca/EN/main/city/bylaws.html>

I would like to know if the construction noise happens outside of the 7:00 a.m. and 7 p.m. on weekdays or 10:00 a.m. and 7 p.m. on Saturdays, or on Sundays and holidays.

If you further questions or if there is construction noise happening outside of the allowable times, please contact me, otherwise the case file will be closed.

Regards,

Kathleen Murphy

**Howard Armstrong**

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**From:** "Howard" [REDACTED]  
**Date:** July-04-13 10:40 PM  
**To:** "Kathleen Murphy" <KMurphy@victoria.ca>  
**Subject:** Re: Case File #34005 - 1310 Topaz

I would have no difficulty at all in appearing in court as a potential witness should the need arise. Due to the long term, ongoing problem with this neighbour, you may be sure that I will be keeping a diary of noise violations emanating from 1310 Topaz. If, in fact, there is no construction relating to his business occurring on the property, it does make me wonder what all the hammering was about that took place during the early part of this past week?

Yours truly,

Peggy Armstrong

— Original Message —

**From:** Kathleen Murphy  
**To:** 'Howard'  
**Sent:** Tuesday, July 02, 2013 4:43 PM  
**Subject:** RE: Case File #34005 - 1310 Topaz

Dear Peggy,

I spoke to the property owner at 1310 Topaz and gave him a copy of the Noise Abatement Bylaw. If you hear construction noise outside of the allowable times and are willing to appear in court as a potential witness, let me know with an email within the next 2 weeks. Otherwise I will be closing this file in 2 weeks. If the noise occurs again outside of the 2 weeks, you may submit another complaint to our department in writing.

As for the possible business licence infraction, I did not observe evidence of construction relating to his business on the property. I did see a large amount of freshly cut firewood (the home is heated by a wood fire), which the home owner admits he has been cutting a tremendous amount of lately. I advised him that it might be helpful to warn his neighbours when he plans to do this, or find out a time when it will be less offensive.

Other than a possible noise violation, which has to be witnessed, I did not observe evidence of a zoning or business licence violation at this time, so there is no finding of a bylaw violation at this time.

If you have any questions, feel free to contact me.

Regards,

Kathleen Murphy  
 Bylaw Officer  
 Bylaw and Licensing Services  
 1 Centennial Square  
 Victoria BC V8W 1P6  
 Tel 250.361.0462  
[kmurphy@victoria.ca](mailto:kmurphy@victoria.ca)

**From:** Howard [REDACTED]  
**Sent:** Monday, Jul 1, 2013 2:54 PM

10:00 a.m. and 7 p.m. on Saturdays, or on Sundays and holidays.

If you have further questions or if there is construction noise happening outside of the allowable times, please contact me, otherwise the case file will be closed.

Regards,

Kathleen Murphy  
Bylaw Officer  
Bylaw and Licensing Services  
1 Centennial Square  
Victoria BC V8W 1P6  
Tel 250.361.0462  
[kmurphy@victoria.ca](mailto:kmurphy@victoria.ca)

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**Sent:** Wednesday, Jun 26, 2013 2:21 PM  
**To:** Bylaw Complaints  
**Subject:** Non-compliant neighbour

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Aside from the fact that Mr. Lackner is depreciating the value of our condo by operating a light industrial business from a Residential 1 site, his continuing uncooperative behaviour has detrimentally impacted our quality of life. Further, if we have people in, we must hold our conversation over the noise from next door.

We feel that Mr. Lackner's continuing non-compliance with the bylaws deserves a substantial fine. It is obvious that warnings do no good.

Attached are two previous letters I sent to the city, neither of which had any lasting effect. You will note that we have been extremely forbearing, considering that this situation has prevailed for more than eight years.

Please inform us of whom you have designated to deal with this situation, and inform us of the resulting action.

Yours truly,

Mrs. H.R. (Peggy) Armstrong



This has been an ongoing problem for a number of years, and I would like it finally dealt with for once and for all.

Yours truly,  
Peggy Armstrong

----- Original Message -----

**From:** Howard  
**To:** Kathleen Murphy  
**Sent:** Monday, July 01, 2013 2:54 PM  
**Subject:** Re: Case File #34005 - 1310 Topaz

Kathleen Murphy,

One would assume that, in order to get a variance, the immediate neighbours would need to be canvassed. This was not done, and it is surprising to learn of the variance. Nevertheless:

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Peggy Armstrong

----- Original Message -----

**From:** Kathleen Murphy  
**To:** 'Howard'  
**Sent:** Friday, June 28, 2013 9:37 AM  
**Subject:** Case File #34005 - 1310 Topaz

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<http://www.victoria.ca/EN/main/city/bylaws.html>

I would like to know if the construction noise happens outside of the 7:00 a.m. and 7 p.m. on weekdays or



## Howard Armstrong

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**From:** "Kathleen Murphy" <KMurphy@victoria.ca>  
**Date:** May-05-14 3:07 PM  
**To:** "Howard" [REDACTED]  
**Subject:** RE: Case File #34005 - 1310 Topaz

Dear Peggy,

I am sorry to hear that the noise from your neighbour's property is continuing to disturb you.

You will need to submit a new complaint on our website as this file was closed last July. The link is [bylawenforcement@victoria.ca](mailto:bylawenforcement@victoria.ca)

Regards,

Kathleen Murphy  
Bylaw Enforcement Officer  
Bylaw and Licensing Services  
City of Victoria  
1 Centennial Square, Victoria BC V8W 1P6

T 250.361.0642 F 250.361.0205



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**From:** Howard [REDACTED]  
**Sent:** Thursday, May 1, 2014 3:37 PM  
**To:** Kathleen Murphy  
**Subject:** Fw: Case File #34005 - 1310 Topaz

Kathleen Murphy:

Re: Case File #34005:

You will note that this is not the first letter I have had to write to you, the Bylaw Enforcement Officer, regarding Mr Lackner at 1310 Topaz Avenue. He continues to violate the Bylaw noted below, and today has been sawing All Day.

In light of the fine weather we have been having, we have found it necessary to have our windows open, which, of course, exacerbates the problem. As previously stated by me, I have no problem testifying in court regarding Mr Lackner's violations.

My suggestion to you is that Mr Lackner be fined each time he violates the below noted bylaw. I see no reason why he should be allowed to continue to interfere with our ability to enjoy our home.









1310 1-0017



