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City could be sued over pesticide bylaw

Posted By Kevin Lajoie

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The city could end up in court over its decision to move ahead with a controversial new pesticide bylaw.

An advocacy group for pesticide applicators in Ontario is threatening legal action against city hall over the pending pesticide ban, which is scheduled to take effect in March 2009.

Jeffrey Lowes, a spokesperson for the Pesticide Industry Regulatory Council (PIRC), said the city has the authority to pass bylaws, but it doesn't have the authority to "ban a business based on false pretenses."

"They're saying the goods and services we provide have an adverse effect on people's health, and that's not true," Lowes said. "They're slandering our industry."

The decision to move ahead with the bylaw passed by a narrow 6-5 vote by city council on Tuesday. Technically, the bylaw has not been ratified yet, and it will come up for formal passage at the next council meeting on April 14.

If it does, Lowes said the city could find itself dealing with charges of defamation and slander of goods in court. There could also be civil damages sought, he said.

At this point, legal proceedings have not been formally initiated. Lowes said he's going to be taking "one last kick at the can" by sending a letter to Mayor Bob Kilger and council asking them to reconsider first.

If need be, Lowes said they're "going to force the city to hear us out and we'll simply do that through lawyers."

Lowes claims the applicators can't simply switch to alternative products because they may contravene provincial and federal acts which regulate products that can be used. As an example, he pointed to using throat spray to kill dandelions.

"It'll work, but we would be in violation (of existing acts)," he said.

The lobbyist also raised concerns about the validity of some of the alternative treatment products.

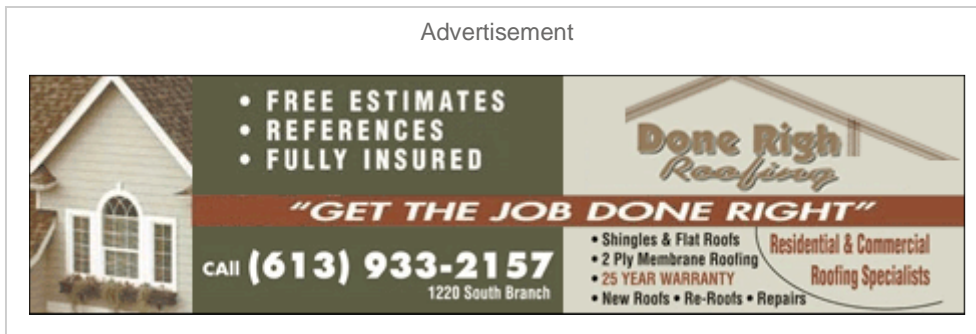
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Lowes claims he tried to make a presentation to the special city committee which recommended the pesticide bylaw, but was refused. Lowes also claims the information he provided to the committee did not make its way into the final report that was presented to council.

However, Coun. Denis Thibault, a member of the committee which examined the matter, claims Lowes was given three opportunities to present to the committee, but he never attended. Thibault also said the pesticide issue was deferred in February, giving Lowes plenty of time to provide any information he would have liked to council.

"He's had all kinds of opportunities," Thibault said. The councillor also wasn't buying Lowes' concerns about the validity and use of alternative lawn treatment products.

He pointed to the fact he just recently saw a new TV advertisement from Weed-Man promoting a new natural lawn care product. Thibault figures if Weed-Man can do it, so can others. An ardent supporter of the proposed pesticide ban, Thibault said he doesn't have any second thoughts about Tuesday's decision or the potential legal ramifications that could follow.

"Let him go ahead and sue me," said Thibault. "I don't think he's going to do anything but yap."

According to Thibault, Hudson, Que., passed a pesticide bylaw and it was successfully upheld despite challenges all the way to the Supreme Court of Canada. All of Quebec is now subject to pesticide legislation, and more than 30 Ontario communities have or are in the midst of passing pesticide bylaws. Mayor Bob Kilger couldn't be reached for comment late Thursday. The PIRC is an interest group that represents just under 10,000 pesticide applicators across Ontario. The group is involved in education, training and advocacy and is not directly linked to any government agency. Council was virtually split Tuesday between moving ahead with the ban and holding off and letting the provincial government handle the issue - something which is largely expected to happen.

Thibault and fellow councillors Kim Baird, Bernadette Clement, Glen Grant, Elaine MacDonald and Mark MacDonald supported the bylaw, while Mayor Bob Kilger and councillors Denis Carr, Syd Gardiner, Guy Leger and Andre Rivette voted against it.

If passed, the bylaw will make it illegal to use cosmetic outdoor pesticides in the city come next March. There will be exemptions for golf courses, agricultural operations and "circumstances where health and safety is paramount." Anyone who contravenes the bylaw could face a fine or other form of penalty under the Provincial Offences Act.

Before the bylaw takes effect, the city plans on undertaking an extensive public education campaign which could cost as much as \$40,000.

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