

April 7, 2016

To: **Hamilton City Councillors**

Re: **Planning Committee Resolution on Swimming Pool Fencing Requirements**

Overview: The City of Hamilton's Planning Committee met on April 5th and during its session addressed the issue of four-sided fencing around residential swimming pools. Following separate presentations by a city official and representatives of the aquatic leisure industry, the Committee resolved by a vote of 5 to 4 to proceed with mandatory four-sided fencing for new pool installations. The Pool & Hot Tub Council of Canada is of the opinion that the decision was ill-founded, based on the following rationale:

Position: We recommend support of the layered approach to swimming pool safety, which has been endorsed by virtually all organizations involved in promoting water safety, including the Red Cross and the Lifesaving Society. Elements include:

- ◆ Adult supervision
- ◆ Physical barriers – fencing, safety covers, doors, window locks
- ◆ Warnings - access alarms, wave detectors, immersion alarms
- ◆ Safety equipment - shepherd's hook, ring buoy, lifeline, flotation devices
- ◆ Posted signs, rules and painted notices (e.g., 'No Diving')
- ◆ Education – swimming lessons, public awareness programs

Existing versus New Installation:

- ◆ Young families who have recently purchased a pool may be more attuned to issues of water safety than other pool owners, in part due to their research and focused interest on the topic. Moreover, the Pool/Spa industry is the first contact for new pool owners. Builders discuss safety options and provide orientation manuals that include information on safety in and around the pool.
- ◆ The same cannot be said for families that move into a house that has a pool already in place in the backyard. They may not be as cognizant or mindful of the need for adult supervision and other safeguards.

Scope: The four-sided fence is intended to protect toddlers.

- ◆ Imposing the installation on families without children under the age of five is tantamount to requiring each and every car owner to install infant seats, even if they do not have young children.
- ◆ Toddlers are at equal risk around new or existing pools. Introducing a By-law that affects only new installations is blatantly capricious in terms of defending child safety, and will be rightfully seen as disingenuous by many citizens.

Statistics: The Drowning Report based on the 2010 Life Saving Society study demonstrated that, over the time period 7 children drowned in pools. Of those children the settings were as follows;

- ◆ 2 children drowned in above ground pools (typically 5' high walls)
- ◆ 3 children drowned in pools THAT HAD 4 SIDED FENCES
- ◆ 2 children drowned in pools where it is unknown if there were any fences or not
- ◆ 5 out of the 7 drownings (71%) had either 5' walls (Aboveground Pool) or four-sided fencing in place.

These numbers, while small, suggest that mandatory 4-sided fencing is not a helpful initiative in preventing drownings.

Experience: Proponents of four-sided (i.e., isolation) fencing have made claims that 7 out of 10 drownings or drowning incidents could be prevented by the addition of a fence separating the house from the pool. However, these predictions have failed to come close to meeting expectations.

- ◆ A case in point is Australia, which has had mandated four-sided fencing in place for more than five years. If any country in the world should have seen a marked improvement in drowning prevention it should have been Australia, as two of its states had no regulations in place whatsoever (not even three-sided fencing.) prior to the regulation being enacted. After some initial improvement, the 2015 Drowning Report from Australia indicates a decline in effectiveness to the point where the country is rethinking its policy.
- ◆ No state in the U.S.A. has legislation that makes four-sided fencing mandatory.
- ◆ While the City of Phoenix, Arizona has a four-sided fencing regulation in place, it applies to all single family pools where the pool is accessible to children under age six. The City has also invested in local water safety programs.
- ◆ While France has fencing regulations in place, the country also permits modern technologies to be used as alternative safety measures (e.g., pool enclosures). Note: Since issuing the 2011 report on drowning, Dr. Roger Skinner, Regional Supervising Coroner of the Office of the Chief Coroner of Ontario, has stated, "I have polled my colleagues and we are not aware of any death investigations that involved automated pool covers."
- ◆ The City of Ottawa requires the gate of a 3-sided fence around the yard to be locked when the pool is not in use.

Recommendations:

- ◆ We strongly encourage the City of Hamilton to approve Alternative “b” as presented to the Planning Committee by Mr. Jorge M. Caetano in the report of the Planning and Economic Development Department delivered on April 5, 2016.
- ◆ In addition, we urge the City of Hamilton to consider amending its existing swimming pool enclosure By-law to incorporate elements of “*A Model Residential Pool Enclosure By-law for Canadian Municipalities*”. Ideally it will include the following provisions:
 - i) All pools, old and new, should be required to have fencing on all three sides, and a gate that is self-closing, self-latching, and locked when the pool is not in use.
 - ii) Families with children of six (6) years of age or less should be required to select and install one or more of the recommended physical barrier options from “*A Model Residential Pool Enclosure By-law for Canadian Municipalities*” and deploy supplementary safeguards to assure additional layers of protection.
- ◆ Finally, we recommend the establishment of an educational program that addresses water safety.

Summary: The five minutes we were allotted at the meeting of the Planning Committee were insufficient for us to state our position. It is important to note that this issue is every bit as much about human behaviour as it is about the installation of physical barriers. The enactment of an imposed singular safeguard in the absence of public education has not proven to be successful. In reality, the ideal solution to child safety concerns is the direct and constant supervision of children around bodies of water, and this requires education.

Four-sided fencing, as one available option to be deployed as a physical barrier, can be effective in preventing drowning incidents, but ONLY if it is the choice of the homeowner. If not, its gate will likely be ignored, left in disrepair or propped open, especially in the absence of active enforcement by the city. Giving a homeowner a variety of effective options to select from has met with greater success, especially in jurisdictions that have invested in public education.

We are prepared to work the city of Hamilton in establishing a public water safety awareness campaign. Such programs have proven to be extremely effective (e.g., London, Ontario).

Yours truly,



W. Robert Wood
Executive Director, PHTCC.