



June 13, 2016

To: Hamilton City Councillors participating in the General Issues Committee Meeting on June 15, 2016

Re: Presentation by the Pool & Hot Tub Council of Canada on the Issue of Pool Barriers/Fencing

Introduction: Isolation fencing can be an effective safeguard, but only if appreciated by the pool owner. In the absence of active enforcement isolation fencing has the potential to fail. Also, based on feedback received from our clients and your constituents, among others, a sizeable majority of citizens are not in favour of mandated four-sided fencing installed around residential pools and ponds. The PHTCC endorses a layered approach to safety, rather than reliance on a single solution. The layered approach to safety is supported by virtually all organizations involved in drowning prevention, including the Canadian Red Cross, Lifesaving Society Canada and the U.S. Consumer Product Safety Commission. 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

The layered approach offers pool owners a variety of digital and mechanical options to select from. This tends to encourage buy-in.

Considerations:

- ◆ *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 customarily discuss safety options and provide orientation manuals that include information on safety in and around the pool.
 - The same cannot be said for families moving 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 of isolation fencing 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 seen as disingenuous by many citizens.

- ◆ *Statistics:* The Drowning Report issued by the Chief Coroner of Ontario based on the 2010 Life Saving Society study demonstrated that 7 children drowned in pools over the covered time period. 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 four-sided fences.
 - 2 children drowned in pools where it is unknown if there were any fences in place or not.

5 out of the 7 drownings (71%) had either 5' walls (Aboveground Pool) or four-sided fencing in place. While a limited sample size, these figures suggest that mandatory four-sided fencing is not an especially helpful deterrent in terms of preventing drownings. Homeowners who loathe the additional side of fencing too often dismantle the gate or leave it propped open.

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

- ◆ A case in point is Australia, which has had mandated four-sided fencing in place since 2004. 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 prior to the regulation being enacted (i.e., not even a requirement for three-sided fencing). After some initial improvement, the 2015 Drowning Report from Australia indicates a decline in effectiveness to the point where the country is rethinking its current policy.
- ◆ No state in the U.S.A. has legislation that makes four-sided fencing mandatory.
- ◆ New Zealand is in the process of revoking the existing pool fencing law.
- ◆ While the City of Phoenix, Arizona has a four-sided fencing regulation in place, its mandated application is limited to pools of single family dwellings in which a child under the age of six (6) resides or regularly visits the property. Alternatively, an automatic safety cover may be deployed. The City has also invested in local water safety programs.
- ◆ The City of Ottawa requires the gate of a three-sided fence around the yard to be locked when the pool is not in use. Drowning prevention ads have been aired in cinemas during summer months.
- ◆ While France has fencing regulations in place, the country also permits modern technologies to be used as alternative safety measures (e.g., pool enclosures/shelters).
- ◆ 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.”* Authors of the report admitted not to have considered other safeguards at the time and are now open to other options, with the overall objective being to protect toddlers.

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.
- ◆ We urge the City of Hamilton to help educate pool and spa owners. Ideally websites, brochures and messages to citizens should include available options outlined in “*A Model Residential Pool Enclosure By-law for Canadian Municipalities*”.
- ◆ We recommend the establishment of a public awareness program for the municipality that addresses the layered approach to water safety. No matter what physical safeguards are put in place, there is absolutely no substitute for adult supervision when toddlers are present.

Summary: 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 awareness 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 as a physical barrier, can be effective in preventing drowning incidents, but only if it is the preferred safeguard chosen by 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 on drowning prevention. This is consistent with the layered approach to safety.

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,



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