



Staff Report for Committee of the Whole Meeting

Date of Meeting: November 6, 2019

Report Number: SRCS.19.26

Department: Community Services

Division: By-law & Licensing Enforcement

Subject: Real Estate Open House Signs - Update

Purpose:

To report back with an evaluation of the temporary amendments to the Sign By-law No. 52-09 regarding real estate open house signs.

Recommendations:

- a) That Staff Report SRCS.19.26 be received.
- b) That By-law 141-19 (Attachment 4 to Staff Report SRCS.19.26) be enacted to amend the Sign By-law No. 52-09 to allow for use of 3 signs per open house event, which include the date, time and address of the open house and comply with location, posting time and size requirements.

Contact Person:

Tracey Steele, Director of By-law and Licensing Enforcement, Extension 2476

Report Approval:

Submitted by: Ilmar Simanovskis, Commissioner of Community Services

Approved by: Neil Garbe, City Manager

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), City Solicitor (as required), Commissioner and City Manager. Details of the reports approval are attached.

Page 2

Background:

On May 28, 2019 Council approved a Member Motion directing staff to produce a report outlining a proposed amendment to Richmond Hill's Sign By-law utilizing the real estate open house sign permissions in Vaughan's Sign By-law as a framework, allowing for a maximum of 5 signs, and requiring the date and time of the Open House to be clearly outlined on the signs. The full Member Motion is attached to this Staff Report as Attachment 1.

On July 9, 2019 Council received SRCS.19.18, which responded to the May 28 Council Member Motion and presented the requested amendment to the Sign By-law No. 52-09 for enactment. Council approved the proposed by-law amendment with one change restricting the content of the signs to "only include the following information: the municipal address of the open house, the words "Open House" and the date and time of the open house." Council also directed that the amendment expire six months after its enactment and that staff report back by November 30, 2019 with an evaluation of the temporary amendment. Specific direction was given with regard to the type of statistics and information that was to be included in the report back to Council (see Attachment 2 for the full Council Resolution).

Municipal Benchmarking

Staff investigated the real estate open house sign regulations of 10 Greater Toronto Area (GTA) municipalities and found that 9 of them allow real estate open house signs to some extent. Amongst the 9 municipalities with by-laws that provide permissions for open house signs there is variation ranging from allowance for only 1 sign, to allowing an unlimited number of signs for each open house.

Feedback from Residents

In June of 2019, the Toronto Real Estate Board (TREB) retained the services of IPSOS to conduct a public opinion poll about the use of real estate open house signs. To complete the poll, IPSOS conducted an online survey of residents aged 18 years and older in the 905 region of the GTA (Durham, Halton, Peel and York Regions). Sample size for the analysis was 1,200 people with 200 of them being from Richmond Hill. Richmond Hill was deliberately oversampled as it was considered the focus of the study. The following results of the survey are considered accurate within plus or minus 3.2 percentage points of what the results would have been had every resident in the 905 area been polled:

- 90 percent of residents across the 905 Region, and 83 percent of Richmond Hill residents support the use of open house signs.
- 89 percent of residents across the 905 Region, and 82 percent of Richmond Hill residents believe that open house signs help to market their neighbourhood to those looking to buy a home.
- 89 percent of residents across the 905 Region, and 74 percent of Richmond Hill residents find open house signs helpful when shopping for a home.

Page 3

- 18 percent of residents across the 905 Region, and 24 percent of Richmond Hill residents believe open house signs are an eyesore and should not be allowed.

Feedback from the Real Estate Industry

On August 7, 2019 staff sent correspondence to TREB advising of the temporary changes to the City's by-law affecting real estate open house signs. At the request of City staff, TREB distributed the correspondence to its membership via email on August 9, 2019.

Since enactment of the real estate open house sign amendment on July 9, staff have been contacted by representatives of the real estate industry as follows:

- 5 calls from realtors requesting information about the by-law change
- 2 calls from realtors complaining about the continued illegal use of signs by other realtors
- 1 call from an agent commending the new by-law amendment
- 1 call from an agent critical of the new by-law amendment
- eleven calls from realtors inquiring about the pickup and impoundment of their signs

During the last week of September and the first week of October 2019, staff solicited input on the use of real estate open house signs from TREB members through an online survey. 513 surveys were completed (in whole or in part) by TREB members. The data collected included the following information:

- 96 percent of survey participants indicated they provide realty service in the Richmond Hill area.
- 92 percent of survey participants indicated they use open house signs, and 29 percent indicated they have used open house signs in Richmond Hill since July 9, 2019.
- 75 percent of respondents indicated that open house signs are "very important" in the sale of a house with 6 percent indicating they are of "no importance"
- 92 percent of respondents indicated their clients expect them to advertise with open house signs.
- 46 percent of respondents indicated a preference for open house signs to be displayed only during the open house and for a limited time before and after, 14 percent suggested signs should be allowed for the entire day of the open house, and 35 percent indicated they should be permitted to display signs for the entire weekend.

On September 24, 2019 TREB sent correspondence (Attachment 3) to the City advising of their concern that the July 9, 2019 by-law amendment is in conflict with Section 36 of Ontario Regulation 580/05 (Code of Ethics) issued pursuant to the *Real Estate and Business Brokers Act, 2002* which requires realtors and brokers to display brokerage and sales agent names on all advertisements displayed by them or on their behalf. The correspondence also suggests that the City's prohibition on the clear and prominent

Page 4

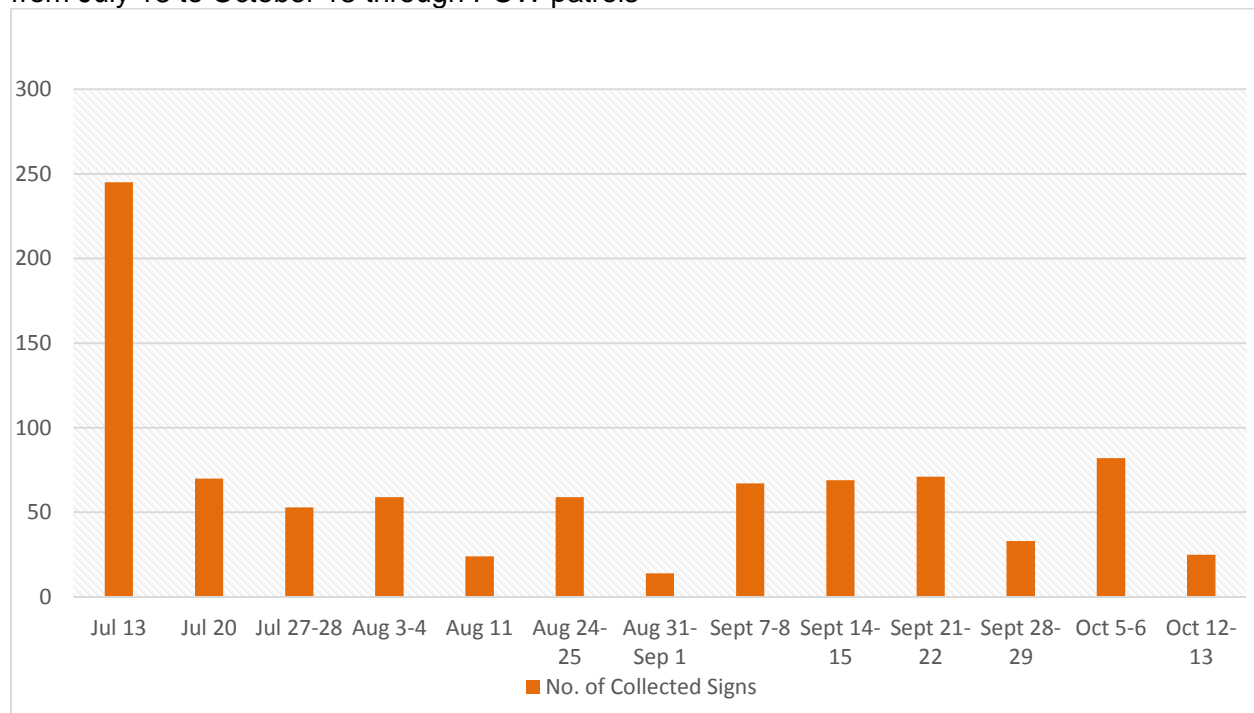
display and disclosure of the name of real estate brokers on signs likely creates a violation of the *Canadian Charter of Rights and Freedoms*. Additionally, the letter contained a request to meet with senior staff to discuss the legality of the amended by-law. Staff declined the meeting request based on the approved motion from Council.

Compliance Monitoring Statistics

Between July 9, 2019 and September 13, 2019, City Public Works Operations (PWO) crews carried out patrols to pick up open house signs not in compliance with the July 9, 2019 Sign By-law amendment. These patrols involved two trucks, each patrolling a specific residential concession block for a period of 3 hours, from approximately noon to 3:00 pm on Saturday and Sunday each weekend. As a result of the patrols, PWO crews picked up and impounded 870 non-compliant real estate open house signs owned by 267 different agents. The vast majority of these signs were collected because they were in contravention of content restrictions (for example, they included agent and/or brokerage information), although a limited number were picked up because they were posted in unpermitted locations.

Data associated with the pickup of non-compliant signs is summarized in Figures 1 and 2.

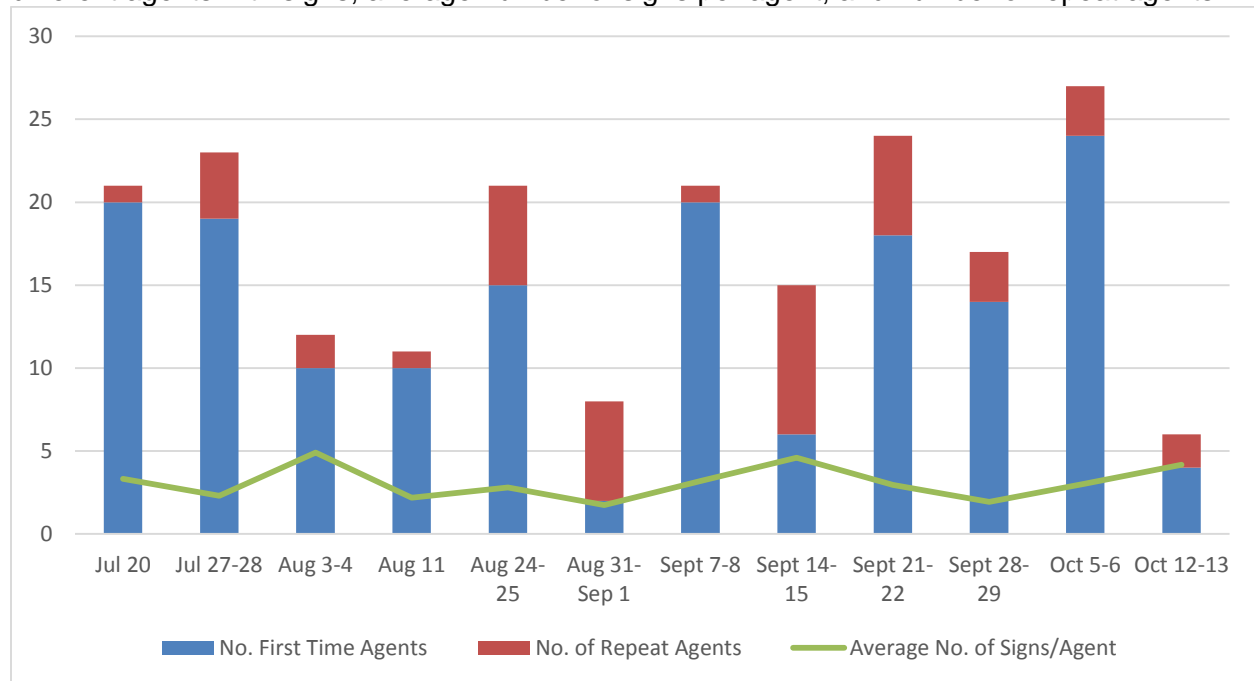
Figure 1. Summary of the number of non-compliant open house signs picked up each weekend from July 13 to October 13 through POW patrols



*Note that patrols were conducted only on one day of the July 13, July 20 and August 11 weekends.

Page 5

Figure 2. Summary of ownership of signs picked up during PWO patrols including the number of different agents with signs, average number of signs per agent, and number of repeat agents.



*A “repeat agent” is a realtor that had a sign picked up during a previous patrol.

Some notable observations from the data summarized in Figures 1 and 2, and the pick-up and impoundment of illegal open house signs in general, are as follows:

- After the first week of pickup and impoundment, there was a significant decline in the number of illegal signs collected.
- Over the majority of the patrol period (August – October) the number of signs collected and impounded each weekend remained relatively constant with the notable exceptions of the Labour Day weekend (August 31 – September 1), the last weekend of September, and the Thanksgiving weekend (October 12 – 13) when fewer signs were picked up.
- The number of signs picked up each weekend depended to some extent on the specific area being patrolled.
- There was an average of 2 to 5 signs per agent each week.
- A relatively small proportion of agents whose signs were collected were “repeat agents” (12 percent). Over the course of the patrol period there were 31 agents whose signs were picked up on more than 1 weekend and there was only 1 agent who had signs picked up on more than 3 weekends.
- There is some evidence of a limited occurrence of agents violating the 5 signs per open house limit.
- Over the patrol period only 3 signs were retrieved by the owners. Retrieval was limited to more costly A-frame style signs presumably because the City’s current retrieval fee acts as a significant deterrent to retrieval of the more common wire

Page 6

push-in signs. (It should be noted that the City's sign retrieval process is currently under review through the Lean Program).

By-law Enforcement Officers also conducted patrols of each ward during the October 12th and October 19th weekends. The purpose of these patrols was to compare the number of compliant signs to the number of non-compliant signs being used. In total, the Officers observed and recorded 43 compliant and 296 non-compliant open house signs. All of the non-compliant signs were in contravention of the content restriction.

Discussion and Recommendations

Section 3.0 of the Sign By-law No. 52-09 sets out the intent of the Sign By-law as follows:

- 3.1 The intent of this By-law is to regulate Signs in the City by permitting Signs that:
- a) are appropriate in size, number, and location to the type of activity or use to which they pertain;
 - b) provide reasonable and appropriate means for the public to locate and identify facilities, businesses, services and events without difficulty or confusion;
 - c) are compatible with surrounding activities or uses;
 - d) protect and enhance the aesthetic qualities and visual character of the City;
 - e) are consistent with the Corporation's planning, urban design, and heritage objectives;
 - f) do not create a distraction or safety hazard for pedestrians or motorists;
 - g) minimize adverse impacts on nearby Property, and
 - h) balance the public's right to expression with the purpose and intent of this By-law.

There are three options for Council's consideration:

Option 1 – Revert back to the original by-law prohibition on open house realty signs by repealing the temporary by-law amendment.

Option 2 – Implement a permanent amendment consistent with the July 9, 2019 temporary amendment, which allows for a limited number of signs (5) and restricts content of those signs.

Option 3 – Implement an amendment that allows for limited use of real estate open house signs with no restrictions on the sign content. In this regard, the recommended amendment (further described below) would allow for use of 3 signs per open house event and require that the signs include the date, time and address of the open house.

It is recommended that Option 3 be approved through enactment of By-law No. 141-19 (Attachment 4). By-law No. 141-19 provides an amendment similar to that which was recommended through SRCS.19.18 with the exception that it restricts the number of

Page 7

signs per open house event to 3 rather than 5. The reduction in sign number is being recommended for the following reasons:

1. For consistency with the Sign By-law intent to protect and enhance the aesthetic qualities and visual character of the City, given the volume of signs that are being used (as evidenced by the PWO patrols).
2. The IPSOS poll data suggests that Richmond Hill residents are less tolerant and supportive of real estate open house signs compared to residents of the GTA's 905 area on a whole. Therefore Richmond Hill should be on the low end of the spectrum compared to other benchmarked municipalities.
3. For more efficient and effective enforcement.

The temporary amendment that has been in place since July 9, 2019 required that real estate open house signs include only the following information: the municipal address of the open house; the words "open house"; and the date and time of the open house. The proposed new amending by-law (No. 141-19) does not restrict the content of signs in this manner. This recommendation to eliminate this restriction is based on:

1. The intent of the Sign By-law to provide reasonable and appropriate means for the public to locate and identify facilities, business, services and events without difficulty or confusion.
2. Benchmarking research indicating that open house signs with realtor and brokerage information included are permitted in most other comparable municipalities.
3. Concerns from TREB around their inability to comply with the content restriction given requirements of the *Real Estate and Business Brokers Act Regulation 58/05*, and Section 18.1 of the Sign By-law which provides that "Where a provision of this By-law conflicts with a provision of any applicable government legislation, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail."

Implementation

Following enactment of the recommended amendment (By-law No. 141-19), staff will work with TREB to provide an update to TREB members in the GTA. The weekly PWO patrols will no longer be conducted and instead, By-law Enforcement Officers will proactively monitor the use of real estate open house signs for the first 3 weeks of implementation. During this time, non-compliant realtors and associated brokerages will be reminded of the in force rules around open house signs. After 3 weeks, by-law enforcement will return to a complaint-based, escalating approach with pick up of signs and a verbal warning on the first violation, a written notice on the second violation, and fine or charge on the third violation.

Page 8

Financial/Staffing/Other Implications:

There are no financial or staffing implications associated with the enactment of the proposed Sign By-law amendment.

Relationship to the Strategic Plan:

Allowing a controlled number of signs is consistent with the Strategic Plan goal of “Better Choice in Richmond Hill” and the associated strategy to “Better understand and support the requirements of businesses.” As well, ensuring that real estate open house signs are regulated at an acceptable community standard is consistent with the Strategic Plan goal of “A More Vibrant Richmond Hill,” and the associated strategy of “creating a sense of identity and place through maintaining a clean and safe community through education, community involvement and enforcement.”

Conclusion:

On July 9, 2019 Council received SRCS.19.18 which included a proposed Sign By-law amendment that responded to a May 28, 2019 Council Member Motion regarding real estate open house signs. Council approved the proposed amendment with one change limiting the content of the open house signs, and directed staff to report back by November 30, 2019 with an evaluation of the amendment.

Since the July 9, 2019 amendment, staff have monitored use of open house signs in the City, conducted additional benchmarking work, and investigated industry and resident opinions about open house signs. It is recommended that an amendment allowing for 3 signs per open house event, which include the date, time and address of the open house and comply with location, posting time and size requirements, be approved. The signs would not be subject to content restrictions prohibiting realtor and brokerage information.

Attachments:

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- Attachment 1 – May 28, 2019 Council Member Motion regarding Real Estate Open House Signs
- Attachment 2 – July 9, 2019 Council Motion respecting SRCS.19.18 – Sign By-law Amendment to Permit Real Estate Open House Signs
- Attachment 3 – September 24, 2019 Correspondence from TREB to Neil Garbe regarding “TREB concerns over potential breach of the Charter of Rights and Freedoms”
- Attachment 4 – By-law No. 141-19 Proposed Open House Real Estate Sign Amendment to the Sign By-law No. 52-09

Page 9

Report Approval Details

Document Title:	Real Estate Open House Signs- Update.docx
Attachments:	<ul style="list-style-type: none">- Council Motion May 28, 2019.pdf- By-law 141-19 Sign By-law Amendment - Real Estate Open House Signs.docx- Attachment 2 - July 9 2019 Council Motion.pdf- Attachment 3 TREB Correspondence Sept24 2019.pdf
Final Approval Date:	Oct 30, 2019

This report and all of its attachments were approved and signed as outlined below:

Ilmar Simanovskis - Oct 29, 2019 - 3:51 PM

Neil Garbe - Oct 30, 2019 - 9:53 AM