

## Background to Proposed By-Law 11

50 Quebec, York Condominium Corporation 323 (323) was built by the same developer as 80 and 100 Quebec which form YCC 435 (435). From the start it was expected that the two condominiums would share common facilities. Before 435 was formed the developer signed an agreement with 323 which provided for the High Park Green Recreation facilities (HPGR).

HPGR is not a separate legal entity. It is a framework, established by the agreement, under which the two condos co-operate to run the pool, the tennis courts and the park lands and pathways around them. The agreement provides for a committee of 4 directors, 2 from each condo who run HPGR. 435 provides about 2/3 of the funding and 323 provides the rest.

Some of the land, like the pool, is owned by 323 and some of the land, like the tennis courts is owned by 435. Each corporation has an easement over the HPGR lands owned by the other. An easement is a legal right allowing the owner of one property the use of adjacent property. The easements allow 435 residents to use the pool and 323 residents to use the tennis courts.

The agreement was prepared before 435 were built. The actual layout of the buildings changed a bit from the plans. There was a major change when the new tennis court was built. The two condos have co-operated from time to time in adapting to these changes.

A dispute did arise several years ago when 323 rebuilt its garage. 435 were built without a place for their garbage to be picked up. They take their bins through 323's garage and then out its front door to the area where garbage from all three condos is picked up. The Agreement gave an easement over this route and provided that 435 was responsible for 2/3 of the cost of the maintenance. 435 believed that this was unfair and a serious dispute arose. To avoid a law suit the condos went to mediation and arrived at a settlement which dealt with both the immediate repair costs and the ongoing maintenance. It was a term of the settlement that a new easement would be granted because the layout of the garage in 323 was changed when the recycling room was built. The existing easement is marked in blue stripes on the attached plan. The additional easement is marked in yellow and a section of the original easement which is being released by 435 is marked in pink.

Since a survey was required it was decided to survey and formally add easements where HPGR has been maintaining paths for many years. Some residents are not aware that all of the old houses in the semicircular block bounded by Gothic and Quebec were purchased by the developer and are now units in one of the two condos. There is a path that goes behind 80 Quebec and which allows access from the back of the houses on Gothic, and the yards of the ground floor units at 80 Quebec to the main HPGR lands including the tennis courts, and the pool. Most of the path is on land owned by 323 but some is on land owned by 435. Each has given the other an easement and the entire area between the back of 80 Quebec and the fences for the townhouses, including the existing path and gardens are being maintained by HPGR. The new easement being given by 323 is marked in yellow and the new easement being given by 435 is marked in black.

The survey showed that the walls at the back of 80 Quebec's ground floor units back yards were actually built a few inches onto 323's property. 323 has agreed to the encroachment on condition that 435 is responsible for the maintenance of the walls.

Many 435 residents use the pathway to the south of the tennis court to access Quebec. 323 agreed to give an easement over this sidewalk. In return, HPGR will assume the cost of snow removal and de-icing.

Finally, there were a number of provisions in the old agreement which did not reflect how things have developed over the last 30 years. A number of minor changes are being made to modernize the agreement. In particular we are changing the dispute resolution provisions to ensure that, if there are further disputes they will be settled by mediation and arbitration.

We are also using this opportunity to repeal two old by-laws that are redundant, 5 and 7. We used to lease the land where 20 Gothic is for tennis courts and some space at the bottom of the back of 20 Gothic for parking. Both leases are outdated and we are repealing the by-laws to clean up our title and so that we do not have to keep giving these obsolete bylaws to new owners.

The old agreement is attached to By-law 4 which can be accessed on our website or in the office. The full scale survey with the changes to the easements is posted in the party room.

**YORK CONDOMINIUM CORPORATION NO. 323  
(the "Corporation")**

**BY-LAW NO. 11**

**(Amended Easement Agreement)**

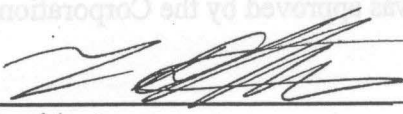
1. On April 27, 1977 323 and Starburst Investments Limited ("Starburst") entered into an agreement to jointly operate the High Park Green Recreational facilities ("HPGR") for the benefit of the Corporation and a condominium being built by Starburst on adjacent land. (the "HPGR Agreement") which was approved by the Corporation by By-Law No. 4.
2. The Condominium under construction was registered as York Condominium Corporation No. 435 (435) and Starburst assigned all of its rights under the HPGR agreement to 435.
3. The HPGR agreement provided for easements over the lands of the parties in favour of the non-owner party and provided for the joint management of the recreational facilities.
4. A lease of lands by the Corporation previously used for as a tennis court was approved by By-Law 5 and a lease of lands by the Corporation used for additional parking was approved by By-Law 7. Both leases have now been cancelled and the tennis courts have been relocated.
5. The Corporation and 435 have agreed to amend the easements because of changes to the layout and use of the properties.
6. The Board of Directors of the Corporation deems it appropriate to pass a bylaw adopting the agreement made with 435 to amend the easements.

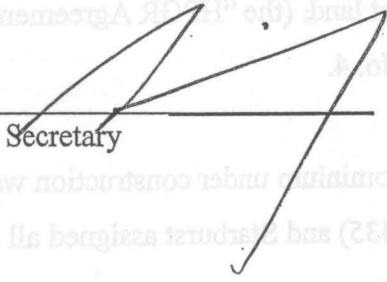
NOW THEREFORE be it enacted as a By-law of the Corporation as follows:

1. The agreement to amend the easements in the form attached is adopted by the Corporation.

2. By-Law 5 and By-Law 7 are repealed.

Dated this 23th day of October, 2012

  
 \_\_\_\_\_  
 President

  
 \_\_\_\_\_  
 Secretary

The foregoing By-law No. 11 is hereby confirmed to by owners who own a majority of the unitsof the Corporation at a meeting of the owners duly called and held on this th day of October, 2012 in accordance with the requirements of the Act.

\_\_\_\_\_  
 President

\_\_\_\_\_  
 Secretary