

11/07/05

Hon. John Gerretsen
Minister of Municipal Affairs and Housing
Main Legislative Building
Room 420
Toronto, ON M7A 1A4

Honourable Minister,

Re. Separation Distances under the Building Code

On behalf of member Medical Officers of Health, Boards of Health and Affiliate organizations of the Association of Local Public Health Agencies (alPHa), I am writing today to re-introduce alPHa's resolution on Minimum Separation Distances of Sewage Systems from Wells and Surface Waters (A04-7, attached).

Sponsored by the Peterborough City – County Health Unit, this resolution was passed by our members in an effort to address regulatory gaps in the protection of drinking water sources that would be closed by amendments and clarifications in the Building Code. There are some sewage systems in Ontario that do not meet the strict requirements of compliance with Part 8 of the Code requirements due to grandfathering or where full compliance is deemed impossible or impractical by the Building Code Commission, triggering the use of “compliance alternatives” under Part 11.

This creates a double standard that is intensified where terms like “impossible”, “impractical”, “repair” and “replace” appear in the legislation and are subject to interpretation. Clearer definitions are required in order to ensure that protecting drinking water sources is the primary consideration in any decision.

While it is true that Health Units have the authority to issue orders to correct unsafe systems, it does not have the authority to block building permits for systems that could become unsafe after they are completed. Because of the Part 11 compliance alternatives, Health Units are compelled to issue permits for work on systems that do not comply with the separation distances set out in Part 8. Orders under the Health Protection and Promotion Act are predicated on the reasonable and probable grounds of the existence of a health hazard. There is no authority therefore to issue any order until the system is in service.

Protecting drinking water sources is a responsibility that is shared by many Ministries, and we hope that future amendments to the Building Code include strengthening clauses that are designed to do so as well as reducing the exemptions that weaken such protections.

Yours truly,

Linda Stewart,
Executive Director

Copy: Dr. Sheela Basrur, Chief Medical Officer of Health
Mr. David Brezero Acting Director, MMAH Building and Development Branch
Dr. Garry Humphreys, Medical Officer of Health, Peterborough City – County Health Unit

Encl.

2004 alPHa RESOLUTION NO. A04-7

TITLE: Minimum Separation Distances from Sewage Systems to Wells and Surface Waters

SPONSOR: Board of Health for the Peterborough County-City Health Unit

WHEREAS effluent from private sewage systems may contain many human pathogens; and,

WHEREAS the risk of well contamination increases with proximity to sewage systems; and,

WHEREAS the risk of surface water contamination increases with proximity to sewage systems; and,

WHEREAS the Honourable Dennis O'Connor, in his Report of the Walkerton Inquiry, identified that for rural residents who drink untreated groundwater from wells, source protection is the only protection available; and,

WHEREAS current regulations under the Building Code Act do not establish a minimum separation between sewage systems and wells when repairing or replacing a sewage system;

WHEREAS these current regulations do not clearly define the terms "repair" and "replacement" of sewage systems;

NOW THEREFORE BE IT RESOLVED THAT the Association of Local Public Health Agencies (alPHa) petition the Minister of Municipal Affairs to immediately amend the regulations governing the repair and replacement of sewage systems to include a clear definition of the "repair" and "replacement" of sewage systems and to require that the minimum separation to wells and surface water not be less than that required for newly constructed sewage systems.

Action from Conference: Moved: P. Heath (Peterborough)

Seconded: M. Pearson (Peterborough) Carried