



Report to: General Committee

Report Date: June 7, 2007

---

<b>SUBJECT:</b>	Resident Noise Concerns at CN Bala/York Railway Intersection (Thornhill Area)
<b>PREPARED BY:</b>	W. Wiles, Manager, By-law Enforcement & Licencing x4851

---

**RECOMMENDATION:**

That Committee receive the Noise and Vibration Impact Statement Summary Chart included as Attachment B to this report and outlining residential concerns regarding excessive noise and vibrations occurring from the CN Bala/ York Railway Intersection (Thornhill);

And that staff be directed to initiate and coordinate the following:

- Submission of the Noise and Vibration Impact Statement results and the results of a consultant's study on noise and vibration within the neighbourhood to CN;
- Identification by the residents of representatives for a Public Liaison Committee;
- Initiation of a Public Liaison Committee process with CN to review the findings of consultant's study on noise and vibration in the area to develop recommendations on solutions or measures to address noise and vibrations;
- Submission of report to Committee on the findings and recommendations on possible next steps, resulting from the Public Liaison Committee review;

And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

Railways are a source of environmental noise, vibration and other environmental impacts that can affect the property values, quality of life and health of those living in close proximity to railway operations.

The residents of the neighbourhood located in the vicinity John Street and Bayview Avenue have for several years been experiencing increasing significant impacts from the operation of the CN rail line adjacent to their properties and have sought the Town's assistance in obtaining mitigation of these impacts from CN.

This report seeks approval for staff to participate in processes through which resident complaints may be addressed and remedial measures sought to mitigate the impacts of CN railway operations in the affected area.

**FINANCIAL CONSIDERATIONS:**

Not applicable

---

**PURPOSE:**

To assist residents in alleviating the impact of excessive noise and vibrations generated by the use of the CN Bala tracks.

**BACKGROUND:**

The area residents located southeast of the intersection of John Street and Bayview Avenue in Thornhill have complained to the Town of Markham about the excessive and unusual noise created by train movements over the railway crossing (diamond) located close to their homes. The residents acknowledge that the railway existed prior to their homes; however, the noise and vibration has increased significantly over the past few years and is currently impacting on even the simple enjoyment of their homes.

The subject railway crossing area is also known as the CN Bala/ York Railway Intersection. CN has considerable track at the location, including two main at-grade intersecting rail lines known as the Bala Subdivision (north/south lines) and the York Subdivision (east/west lines). In addition, there are curved track sections creating a "diamond" around the tracks at the intersection, containing switches known as "frogs". The diamond and frogs are used to switch trains between the tracks and rail subdivisions.

The railways tracks in the area carry CN passenger and freight trains across both subdivisions as well as GO Transit passenger trains along the north-south Bala Subdivision.

In the summer of 2006, the Town of Markham retained SS Wilson Associates, Consulting Engineers, to measure and predict the existing sound levels due to all sources of train noise in the subject area, to assess the significance of the train noise impact, and identify steps towards resolving the noise complaints.

The consultants' report was submitted to the Town in September 2006. The report confirms that sound levels in the affected area are 10 dBA higher than those of locations away from the crossing. The report also confirms vibration levels in excess of the internationally established criteria for acceptability. Each of these factors provide sufficient grounds for residential complaints and highlight the need for CN to take a number of remedial measures.

Town of Markham staff have also attended at these locations and have verified the impacts of noise and vibration experienced by the area residents.

**OPTIONS/ DISCUSSION:**

In addition to directing correspondence to CN detailing resident complaints and entering into informal discussions and/or meetings seeking resolution of those complaints, more formal processes exist to address complaints related to railway operations.

The first formal process is a Local Dispute Resolution process. If that process fails to resolve the matter, the next step is Canadian Transport Agency Mediation.

**Local Dispute Resolution**

In May 2003 the Federation of Canadian Municipalities (FCM) and the Railway Association of Canada (RAC) signed a Memorandum of Understanding. The stated goal of this agreement was to “build common approaches to the prevention and resolution of issues that arise when people live and work in close proximity to railway operations.” Included in this mandate was the development of a voluntary “dispute resolution protocol to guide concerned parties when issues emerged.”

This protocol, the *Local Dispute Resolution Framework*, establishes guiding principles for dispute resolution, which includes face to face meetings between railway representatives and municipal staff to identify and define issues in an attempt to achieve a compromise or jointly agreed solution. If resolution is not achieved the issue may proceed to voluntary third -party mediation.

**Public Liaison Committee**

Staff contacted CN and discussed the procedure required to undertake the Local Dispute Resolution step. CN and staff recommend a Public Liaison Committee be formed consisting of local residents, Town staff, and CN staff using the *Local Dispute Resolution Framework* to address the matter.

**Canadian Transportation Agency Mediation**

The Canadian Transportation Agency is a federal government agency who's mandate includes the resolution of transportation disputes. Where residents/ municipalities cannot resolve their differences regarding noise and vibration concerns, the Agency has used mediation services upon request. Mediation provided by the agency is a voluntary, informal and collaborative process designed to help parties jointly make decisions about ways to address the issues in dispute so that they can negotiate a mutually beneficial settlement. A precondition to accessing the mediation process is that some attempt has been made between the parties to resolve the matter. Participation in the RAC/FCM Local Dispute Resolution process could constitute such an attempt; however, even less formal discussions or correspondence between the parties would satisfy this requirement.

The Town may initiate mediation by correspondence or by submitting a *Request To Mediate* form to the Agency. The Agency would then contact CN to determine whether it was willing to have the dispute resolved through mediation. Parties submit a brief outline of the dispute and any relevant documentation to the Agency and to the other party. The mediation process is informal and the parties must agree that all information disclosed will remain confidential.

The process establishes ground rules, processes for exchanging information, and the time and location of the mediation, which takes place in a neutral location. During the mediation, parties try to reach a common definition of the facts and issues and to generate and explore various options for resolving areas of disagreement with the mediator's help. The parties themselves will decide on a solution as the mediator does not impose a solution.

**Bill C-11 An Act to Amend Canada Transportation Act**

Although the Canadian Transportation Agency may conduct voluntary mediation with respect to railway noise issues, there is currently no federal body mandated to regulate railway noise. Bill C-11 - An Act to Amend the Canada Transportation Act, currently before the House of Commons awaiting Third Reading, would codify the mediation process of the Agency and would give the Agency specific powers to deal with complaints concerning noise from the construction or operation of railways.

The Bill would require railway companies constructing or operating a railway to cause as little noise or vibration as possible, taking into account a number of factors including the potential impact on persons residing in properties adjacent to the railway. The legislation would empower the Canadian Transportation Agency to review noise complaints and if required, order railway companies to make changes in their construction or operation that the Agency considered reasonable to cause as little noise or vibration as possible, taking into account a number of factors including the potential impact on persons residing in properties adjacent to the railway.

The proposed legislation directs the Agency to publish Guidelines following consultation with interested parties- including municipal governments; which the Agency would use to determine if the railway is in compliance with its obligation to create as little noise as possible. The guidelines would also provide for the collaborative resolution of noise and /or vibration complaints relating to the construction or operation of railways.

Due to uncertainty with the date for passing and enactment of the proposed legislation, this report recommends proceeding immediately under the current processes.

**FINANCIAL TEMPLATE:**

Not applicable

**ENVIRONMENTAL CONSIDERATIONS:**

The Town ensures that all new development plans adjacent to railway corridors meet provincial guidelines for noise and vibration abatement. While there is no requirement for CN to comply with these guidelines, there may be opportunities for actions that reduce the current noise and vibration levels for the area residents.

---

**ACCESSIBILITY CONSIDERATIONS:**

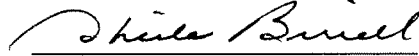
Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

None

**RECOMMENDED**

**BY:**



Sheila Birrell, Town Clerk



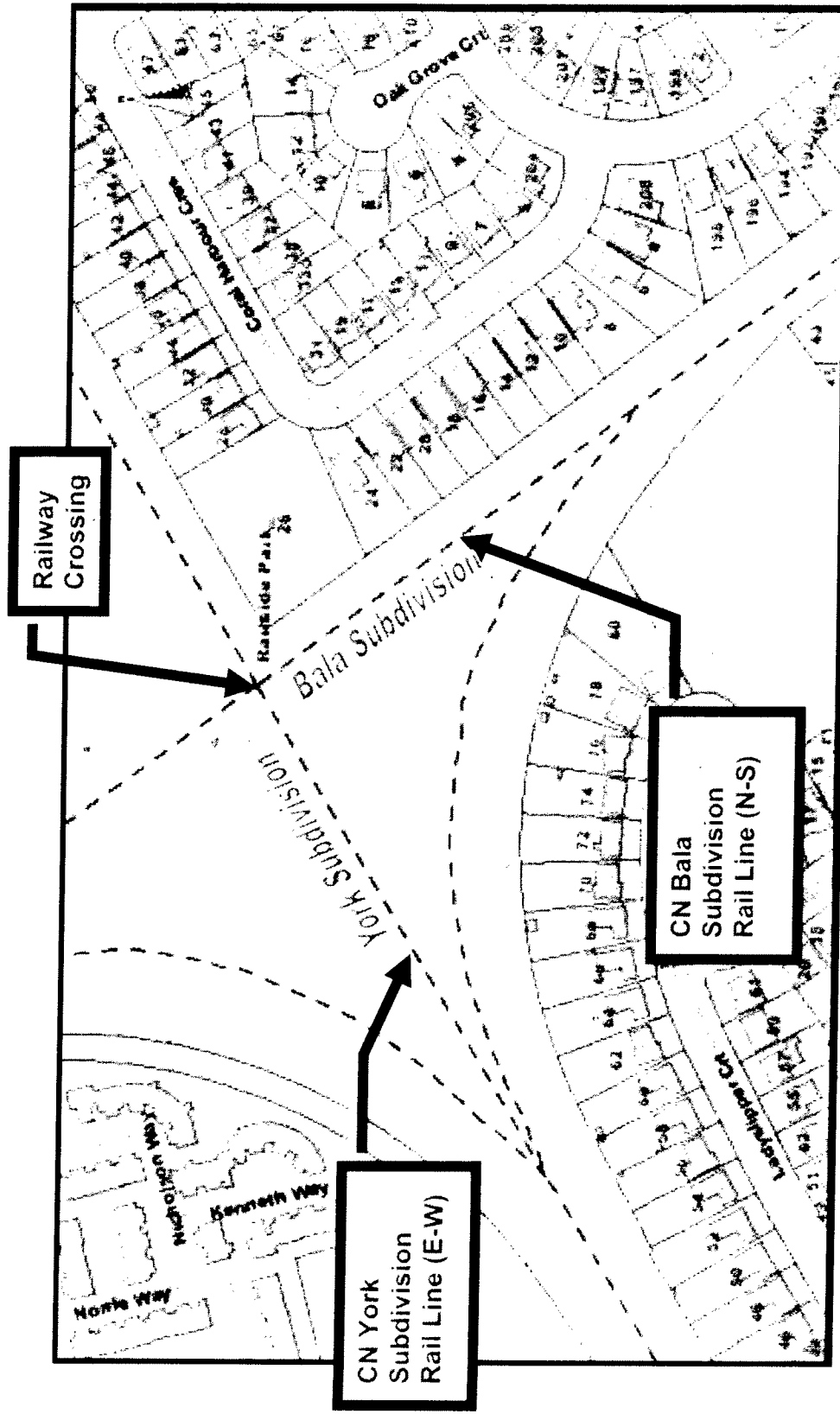
Andy Taylor, Commissioner  
Corporate Services

**ATTACHMENTS:**

Area Map

Summary Chart - Noise & Vibration Impact Statements





**FIGURE 2: STUDY AREA ADDRESSES**