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Courts pave way for greening of our lawns

In our house, the first sign of spring is not Groundhog Day, or the January Boat Show, or the (hopefully) rising temperatures. Instead, I know that warm weather is only just around the corner when the annual renewal notice arrives from Mississauga-based Earth Green Lawn Care, the company that keeps my lawn green and weed-free.

Years ago I gave up the battle with the ever-hardy Toronto dandelions, and joined the thousands of other Toronto homeowners who hired lawn companies to spray chemical weedkillers in the front and back yard.

At some point I realized how dangerous these chemicals were, and switched to organic-based fertilizers and weed controls. This was long before Benjy, our Lhasa Apso, arrived in the house two years ago to make the back yard his personal domain.

Now, thanks to a 2001 decision of the Supreme Court of Canada, it appears Toronto homeowners may have no choice about using organic and pesticide-free lawn treatments.

The case originated in 1991 when the town of Hudson, P.Q., located west of Montreal, adopted a bylaw which severely restricted the use of pesticides within the municipality. The following year, two lawn care companies, Spraytech and Chemlawn, were charged with using pesticides in violation of the bylaw.

In response to the charges, the companies applied to court to declare the bylaws void because they were beyond the town's legislative authority. By the time the case got to the Supreme Court of Canada in 2001, two lower courts had ruled against the lawn care companies to uphold the bylaw.

In a long and complicated legal ruling, the Supreme Court agreed with the two lower courts and said that the town of Hudson had the authority to pass the bylaw under the "general welfare" provisions of the enabling provincial legislation.

In the Supreme Court, Justice Clare L Heureux-Dub endorsed the words of the trial judge in the case. He wrote, "Twenty years ago, there was very little concern over the effect of chemicals such as pesticides on the population. Today, we are more conscious of what type of an environment we wish to live in and what quality of life we wish to expose our children (to)."

Justice L Heureux-Dub affirmed that "environmental protection has emerged as a fundamental value in Canadian society."

As a result, it was no surprise when the letter from Neil McCallum and Maurice Labranche, owners of Earth Green, advised me that in November last year, the Toronto Board of Health directed the city's Medical Officer of Health "to develop in consultation with the City Solicitor, the exact wording of a bylaw to take effect in May, 2003, similar to the Hudson, Quebec, bylaw upheld by the Supreme Court of Canada."

The Board of Health also directed the preparation of a process for implementing the proposed bylaw, to be discussed at its meeting in April. The proposals came after a year-long consultation process which included meetings with 500 stakeholders and review of 240 written submissions.

A telephone research survey of 1,000 Torontonians showed 72 per cent in favour of a bylaw to restrict most outdoor uses of pesticides on private property.

Dr. Sheila Basrur, Toronto's Medical Officer of Health, is creating a pesticide reduction partnership of industry stakeholders to work out the implementation plans. Her goals are ambitious. Within three years, she wants to achieve a 100 per cent reduction at schools, daycares, hospitals and other care facilities; 90 per cent on residential property; and 60 per cent on commercial and industrial sites.

Similar bylaws are in effect in Waterloo, Ont., and Port Coquitlam, B.C.

In November, Richard Patten (MPP for Ottawa Centre) introduced a private member's bill at Queen's Park to give municipalities the power to ban pesticide use. Although it received second reading in December, it is likely that municipalities already have that power based on the existing Municipal Act and the Supreme Court of Canada decision in the Hudson, P.Q., case.

Landscape Ontario, a horticultural trades association, is opposed to the legislation. It warned that 30,000 jobs, 1,300 small businesses and \$200 million in sales will be threatened if municipalities ban pesticide use. Andrea Peart, of the Sierra Club of Canada, disagrees. "They're poison," she said. "If they weren't poison, they wouldn't kill."

In my view, Dr. Basrur and her staff are to be congratulated on their initiative. The sooner City council passes the new bylaw, the safer all Torontonians will be.

Elsewhere in Ontario, Sarnia, Ottawa, London and Cambridge are considering similar prohibitions. I hope all Ontario municipalities will soon follow suit.

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