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Via e-file and e-mail

Mayor Don Iveson
2nd Floor, City Hall
1 Winston Churchill Square
Edmonton, AB T5J 2R7
<https://coewebapps.edmonton.ca/contactmayor/default.aspx>

Roger Symon
Supervisor, Operations, Pest Management Program
100, Westwood Site, 12304 107 St NW
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Dear Mayor Iveson and Mr. Symon:

Re: City of Edmonton's use of the pesticide Dursban 2.5 for mosquito control

I am writing on behalf of Sheryl McCumsey, a resident of Edmonton, concerning the City of Edmonton's use of the pesticide Dursban 2.5 ("Dursban") for mosquito control.

Requirements for use of Dursban

The *Pest Control Products Act*, SC 2002, c 28 (the "Act") is intended as a tool "to prevent unacceptable risks to people and the environment from the use of pest control products."¹ An "acceptable risk" is defined as follows:

For the purposes of this Act, the health or environmental risks of a pest control product are acceptable if there is reasonable certainty that no harm to human health, future generations or the environment will result from exposure to or use of the product, taking into account its conditions or proposed conditions of registration.²

¹ Subsection 4(1).

² Subsection 2(2).

Subsection 6(5)(b) of the Act states that a registered pest control product must be used in a way that is consistent with the directions on the label recorded in the Register of Pest Control Products (the “Register”).

Dursban is a registered pest control product. Its label is recorded in the Register of Pest Control Products³ and includes the following statements:

- “This product is not to be used in and around homes or other residential areas such as parks, school grounds, playing fields.”
- “Do not apply in areas where there may be potential exposure to bystanders.”
- “This product should be applied at an appropriate distance from residences, hospitals, schools, parks, playfields, and playgrounds. This distance should be decided by the municipality/province.”⁴

Edmonton appears to have decided that an “appropriate distance” for the purposes of the label requirement is 30 metres in the case of “occupied buildings” or a “residential park or other areas frequented by children.”⁵

Therefore, the Act prohibits the use of Dursban in a park, playing field or other residential area; in any areas where there may be potential exposure to bystanders; or within 30 metres of a park, playfield, or other area frequented by children in Edmonton.

Use of Dursban in Edmonton appears to be contrary to requirements

It appears that Edmonton may be applying Dursban contrary to the label requirements and therefore the Act. Specifically, Edmonton has applied Dursban in Terwillegar Park at least as recently as 2014.⁶ Terwillegar Park is an official City of Edmonton park, which features biking and hiking trails, a canoe launch, and an off-leash area for dogs.⁷ This appears to be captured by the list of areas where use is prohibited: in a park, playing field or other residential area; in any areas where there may be potential exposure to bystanders; or within 30 metres of a park, playfield, or other area frequented by children.

³ Register is available online as the “Pest Product Information Database” at <http://www.hc-sc.gc.ca/cps-spc/pest/part/protect-protoger/publi-regist/index-eng.php#ppid>.

⁴ Label is available via the Register online at http://pr-rp.hc-sc.gc.ca/1_1/view_label?p_ukid=65635552.

⁵ See http://www.edmonton.ca/programs_services/pests/facts-about-dursban-25g.aspx and City of Edmonton Community Services Department, Neighbourhoods, Parks, and Community Recreation Branch, Community Standards Branch, Document Number NPCR-WI-005, approved on July 7, 2008, revision date April 11, 2012, at page 2 of 8.

⁶ See <http://edmontonjournal.com/news/local-news/mosquito-fight-puts-restricted-insecticide-near-homes-natural-areas>.

⁷ See http://www.edmonton.ca/activities_parks_recreation/parks_rivervalley/alphabetical-park-listing.aspx and http://www.edmonton.ca/activities_parks_recreation/parks_rivervalley/terwillegar-park.aspx.

Terwillegar Park is an area where bystanders using the Park for recreation may be exposed, and is frequented by children.

Terwillegar Park can also be considered a residential area. As a further indication of Terwillegar Park's status as a residential area, one of Ms. McCumsey's fellow members of Pesticide Free Edmonton was informed by the local Regional Manager of Health Canada's Pesticide Compliance Program that the Pesticides Management Regulatory Agency defines residential areas as:

sites where bystanders including children may be potentially exposed during or after spraying. This includes around homes, school[s], parks, playgrounds, playing fields, public buildings or any other areas where the general public including children could be exposed.

The Regional Manager also stated that:

Naturalized park areas with trails frequented by hikers/general population are considered to meet this definition of residential areas. Those park areas that are less accessible, but [where] possible entry or use is expected are also considered residential. Those areas within naturalized parks where entry is not expected would not be considered residential.

By any common sense understanding of the word, Terwillegar Park, an official City park, is also a park within the meaning of the label's restrictions on use.

It therefore appears that the label and the Act prohibit the use of Dursban in Terwillegar Park or similar areas within Edmonton.

Request

Ms. McCumsey has discussed this issue with representatives from the City, Alberta Environment and Parks, Health Canada and the Pest Management Regulatory Agency, and to date she has not received satisfactory responses.

In light of the above information, we look forward to the City clarifying how it intends to comply with the Act going forward – and doing so, or providing a progress update, by March 31, 2016.

More specifically, we request that you:

1. confirm whether the City applies Dursban in a park, playing field or other residential area; in any areas where there may be potential exposure to bystanders; or within 30 metres of a park, playfield, or other area frequented by children – including whether it is applied in Terwillegar Park; and
2. confirm that the City will not apply Dursban in a park, playing field or other residential area; in any areas where there may be potential exposure to bystanders; or within 30

metres of a park, playfield, or other area frequented by children in Edmonton in future;
and

3. commit to thorough and accurate documentation of locations where Dursban is sprayed, in order that compliance with the label restrictions can be verified.

Sincerely,



Dyna Tuytel
Barrister and Solicitor

cc.

Sheryl McCumsey

Hon. Jane Philpott, Minister of Health (Health Canada), hon.jane.philpott@canada.ca

Nasila Ali, Regional Manager, Health Canada Pesticide Compliance Program (Alberta Region),
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Hon. Sarah Hoffman, Minister of Health (Alberta Health) and Deputy Premier,
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Dr. Chris Sikora, Edmonton Zone Medical Officer of Health, Alberta Health Services,
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Hon. Shannon Phillips, Minister of Environment and Parks, c/o Brandon Stevens, Ministerial
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