

Rooming House Hearing - 2762 Dundas Street West

(City Council on December 14, 15 and 16, 1999, adopted the following recommendations:

“It is recommended that:

- (1) the Acting Commissioner of Urban Planning and Development Services be requested to hold a hearing respecting this matter as soon as possible, on or before January 11, 2000;*
- (2) the Acting Commissioner of Urban Planning and Development Services be directed to send notice to the owners of the property, advising that:*
 - (a) the key does not work and that they have not complied with one of the conditions of the licence;*
 - (b) the building does not comply with the licence issued on December 7, 1999, with respect to the number of washrooms and number of self-contained units; and*
 - (c) they must meet all the requirements of the Fire Department;*
- (3) access to the building is to be provided to staff of the City of Toronto and the Toronto Police Service;*
- (4) the Commissioner of Community and Neighbourhood Services be requested to prepare possible alternative locations, should the permanent licence not be granted on January 11, 2000; and*
- (5) the Acting Commissioner of the Urban Planning and Development Services be requested to:*
 - (a) obtain all files and material respecting this matter;*
 - (b) ensure that there is adequate security at the hearing; and*
 - (c) submit a report to the Planning and Transportation Committee on whether the Rooming House Tribunal should be abolished and its functions be assumed by the Toronto Licensing Tribunal.”*

City Council, at its in camera meeting held on December 14, 1999, also issued confidential instructions to staff, such instructions to remain confidential in accordance with the provisions of The Municipal Act.

The Policy and Finance Committee reports having requested the City Solicitor to submit a report directly to Council for its meeting scheduled to be held on December 14, 1999, respecting the following communication (November 30, 1999) from Mr. Marc Kemerer, Solicitor, Administrative and Planning Law, regarding a Rooming House Hearing at the Ontario Municipal Board:

At its meeting of November 24, 25 and 26, 1999, Toronto City Council instructed the City Solicitor to appear at the above-noted hearing in opposition to the issuance of a rooming house licence.

I am the solicitor assigned to this file and, unfortunately, I am scheduled to attend at a hearing before the Ontario Municipal Board on the date scheduled for this matter, December 7, 1999. As a result I write to you now to request that the hearing be adjourned to the next available date, January 11, 2000.

In making this request I also respectfully submit to you that (1) an adjournment will allow for a full hearing of the issues and (2) it will result in no prejudice to the applicant. On the first point, a number of serious allegations have been raised around the operation of the premises. To fully address these allegations I will require the attendance of Fire staff and the Police. I am advised by Captain Dobson of the City's Fire Department that Fire will not be able to attend the December 7 hearing and it is not clear that the Police will be available to attend on that date. This will adversely impact on the City's ability to put forward its case. Both Fire and the Police are however, available to attend the January 11, 1999, hearing.

Regarding the second point, it is my understanding that, according to the applicant, Mr. Mian, the premises has been vacant since the fire in May of this year. I also understand that there is still work to be done in order to make the premises suitable for occupancy. As you will be aware, this matter has been previously adjourned on these same grounds with no prejudice to the applicant.

I have spoken to City staff and to area residents and they are amenable to the adjournment request. Indeed, as I have noted above, not all of the necessary commenting authorities will be available to attend on the December 7 hearing date. I have left a message for the applicant to discuss the matter with him but he has not yet returned my call.

Finally, as you are aware, panel members on administrative tribunals must not only be free of bias in respect of the matters before them, but they must also be seen to be free of bias. It is my understanding that you be associated with InterArch, the firm retained by the applicant on this and other properties. If this is in fact correct, you may wish to have Mr. Breeze preside at the hearing in order to avoid any apprehension of bias.

Should you have any questions concerning the above, kindly contact the writer at your earliest convenience. I would be grateful if you could advise me on my request for an adjournment in advance of December 7, 1999.

(City Council on December 14, 15 and 16, 1999, had before it, during consideration of the foregoing Clause, the following report (December 9, 1999) from the City Solicitor:

Purpose:

For information purposes.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that this report be received for information.

Background:

At its meeting on November 24, 25 and 26 City Council adopted a motion directing the City Solicitor to provide legal representation at the Rooming House Licence Hearing for 2762 Dundas Street West, scheduled for December 7, 1999. Concerns had been raised by City inspections staff and by residents of the area over the operation of the premises.

By way of letter dated November 30, 1999, a copy of which is before Council as Clause No. 28 of the Finance and Policy Committee Report, the Licensing Commissioner, Mr. Burke, was requested to adjourn the hearing to the next available date, January 11, 2000. As the staff member assigned to this matter had a scheduling conflict, the request would allow for a full adjournment of the hearing and moreover, it would result in no prejudice to the applicant. The building has been vacated since February of 1999 as a result of a fire on the premises. The Commissioner advised that he would consider the request at the hearing, and not before.

At its meeting on December 7, 1999 the Finance and Policy Committee directed that I report to Council on what had transpired at the hearing.

Comments:

At the hearing on December 7, 1999, the Commissioner ruled that the request for the adjournment would be granted, but that he was willing to entertain evidence regarding a possible temporary licence.

Evidence was led by both the City and the applicant. As part of that evidence, the police stated that there have been more than 300 calls relating to a wide range of offences since 1995 and area residents recounted numerous incidents of criminal activity and described several problems that they had encountered with the applicant.

The Commissioner granted a temporary conditional licence, effective immediately, to expire on March 14, 2000. The conditions require that the applicant provide an office in the premises for

the police and provide the police with a key to allow unlimited access to the common areas of the building.

The Commissioner also ruled that he will hear evidence on the merits of the licence application on January 11, 2000. That hearing is set to be held in the evening at a local public school.

Conclusions:

In response to Council's direction, Legal attended at the December 7, 1999 Rooming House Hearing regarding the subject premises. At the hearing the City requested an adjournment, which was granted. As per the attached decision, the Rooming House Licensing Commissioner did however grant a temporary licence with conditions.

Contact:

*Marc Kemerer
Solicitor Planning & Administrative Tribunal Law
Telephone: (416) 392-1228
Fax: (416) 397-4420
E-mail: mkemerer@city.toronto.on.ca*

List of Attachment:

Decision of the Rooming House Licensing Commissioner, dated December 7, 1999.)

Insert Table/Map No. 1
Decision of the Rooming House Licensing Commission, dated December 7, 1999

(City Council also had before it, during consideration of the foregoing Clause, a confidential report (December 14, 1999) from the City Solicitor, such report to remain confidential in accordance with the provisions of the Municipal Act.)