

February 22, 2006

To: Planning and Transportation Committee

From: Lenna Bradburn, Executive Director, Municipal Licensing and Standards

Subject: Review of the Recommendations Presented by the Holistic Stakeholders, including the Effectiveness of the Markham Registry By-law and its Applicability to the City of Toronto

Purpose:

To report on the recommendations presented by the Holistic Stakeholders, including the effectiveness of the Markham Registry By-law, and its applicability to the City of Toronto.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that this report be received for information.

Background:

At its special meeting of July 26, 2005, City Council directed the Executive Director of Municipal Licensing and Standards to report to the Planning and Transportation Committee on the effectiveness of the implementation of the Markham Registry By-law, in order to inform future actions regarding regulatory structures for the holistic health community to the exclusion of the sex trade in Toronto. Council additionally directed that the Executive Director of Municipal Licensing and Standards report to the Planning and Transportation Committee on a replacement of the licensing system for holistic establishments and practitioners, with a registry system requiring practitioners to show membership in a city-accredited professional association.

At the Planning and Transportation Committee meeting of November 7, 2005, deputations were made by holistic stakeholders pertaining to Report 10, Clause 9, entitled “Qualified Professional Holistic Associations whose Members may be Licensed as City of Toronto Holistic Practitioners and Owners.” The following motion was made:

“...requested the Acting Executive Director, Municipal Licensing and Standards, to meet with Members of the Qualified Professional Holistic Associations to discuss the compilation of suggested motions contained in their communication (November 7, 2005) and report thereon to the Planning and Transportation Committee no later than its meeting of March 6, 2006.”

Comments:

Recommendations of Holistic Stakeholders

Staff conducted several consultations with holistic stakeholders regarding the recommendations they presented at the Planning and Transportation Committee meeting of November 7, 2005. Consultations were held in the afternoon or evening to be accessible to the majority of stakeholders. Consultations were held on November 28, 2005; December 5, 2005; December 13, 2005; and January 20, 2006.

Although deputations were made by a few of the stakeholders, the invitation to review the suggested motions was extended to all holistic stakeholders on the Municipal Licensing and Standards’ contact list. It was important to have an inclusive consultation given that the results have a direct impact on all the holistic licensees within the City of Toronto.

The discussions pertaining to their suggested motions are summarized into two core issues: operational and policy.

Operational Issues

Some of the recommendations presented by the holistic stakeholders are operational issues that fall within the scope of the responsibilities of Municipal Licensing and Standards, Licensing Unit. The operational recommendations have been summarized as follows:

1. To develop and communicate the process for receiving documentation from Professional Holistic Associations;
2. To update and re-program the Licensing Unit’s computer system to capture additional information required as a result of the new Holistic By-law; and
3. To request the volunteer assistance of holistic stakeholders in developing a series of training modules related to holistic modalities, for Municipal Standards Officers.

Policy Issues

The recommendations presented by the holistic stakeholders have direct impact on developing the de-listing process for Professional Holistic Associations. Discussions regarding their recommendations surround the importance of the Municipal Licensing and Standards, Licensing Unit, to maintain an open communication with the Professional Holistic Associations.

Additional consultations will be scheduled to finalize the de-listing process for Professional Holistic Associations. A Senior Policy and Research Officer will facilitate the consultations and Municipal Licensing and Standards supervisors will also be in attendance to provide response to any queries, as well as to offer input into the feasibility of the ideas being proposed.

Staff will recommend the ideal de-listing process for the City's List of Approved Professional Holistic Associations at the Planning and Transportation Committee meeting of June 1, 2006.

Implementation

The Municipal Licensing and Standards, Licensing Unit, will design and incorporate their operational practices, in relation to the implementation of the new Holistic By-law. The practices will include identifying the process for collecting data from the Professional Holistic Associations; up-dating the Licensing Unit computer system, due to additional information that is required based on the new by-law; and participating in the development of the training curriculum, as it pertains to holistic modalities for Municipal Licensing and Standards Officers.

The implementation of the operational issues relies on the Municipal Licensing and Standards, Licensing Unit. When required, staff will contact the holistic stakeholders at the appropriate time to request their input.

The policy issues will require additional consultations with the holistic stakeholders. Meetings will be scheduled in the months ahead to identify the de-listing process for Professional Holistic Associations whose members continually breach the Holistic By-law. The proposed de-listing process will be provided for the Planning and Transportation Committee meeting of June 1, 2006.

Markham Registry

Prior to 2002, Markham licensed body rub parlours and body rub attendants under its Body Rub By-law 116-98. All others were deemed to be “complementary health care service providers” (the equivalent to holistic practitioners in Toronto) and had to apply for an exemption from the licensing requirements in order to operate legally. Markham required applicants to provide proof of (a) educational requirements met from an approved school; (b) membership in an approved organization; and, (c) insurance coverage for negligence, malpractice or professional liability.

Markham notes that a large number of illegitimate operators sought exemption from the Body Rub By-law and acquired it by submitting false education certificates and belonging to complementary healthcare organizations with lax membership standards. This problem was further exacerbated by a lack of resources to properly administer and enforce the exemption requirements.

After consultation with legitimate complementary health care service providers, Markham decided to license complementary health care providers under a separate by-law (By-law 2002-292). Complementary health care providers and attendants were still required to be a member of a complementary health care organization and have an appropriate formal course of education and training. However, additional licensing requirements were included in By-law 2002-292, including the submission of both a police criminal reference check and a medical certificate. Markham Council committed additional resources and explicitly renewed its partnership with the York Regional Police Service (the Police Service). Markham also introduced a new by-law (By-law 2004-309) providing for a registry for holistic practitioners. The new by-law structure created three types of operators: body rubbers, complementary health care providers, and holistic practitioners.

To register as a holistic practitioner, applicants were required to be members in good standing of an association listed in Schedule A of By-law 2004-309. Associations have to go through an application process and not all associations listed in By-law 2002-292 met the requirements to be included in Schedule A of By-law 2004-309.

The associations that did not meet the standards included in Schedule A, By-law 2004-309 still have a role in Markham’s licensing requirements. They are recognized as professional associations under By-law 2002-292 (see Table 1 for a comparison of Markham’s requirements).

Markham’s by-law structure has removed the incentive for questionable associations to try to be included in Schedule A, By-law 2004-309. Practitioners who intend on providing illegal services are more likely to seek licensing under By-law 2002-292. This clear demarcation has allowed enforcement to be more accurately targeted.

Table 1: Town of Markham requirements.

	Body Rub	Complementary Health Care	Holistic
Regulatory By-law	2002-292	2002-292	2004-309
Regulation type	Licence	Licence	Registry
Restrictions on numbers and locations	Yes	Yes	No
Education requirement	No	Yes	Yes
Professional association membership requirement	No	Yes*	Yes*

*The association schedules are separate and exclusive for each by-law.

Markham has worked closely with the Police Service to address the issue of illegal body rub and complementary health care operators. The Police Service has been an active partner in enforcing By-law 2002-292, as well as the provisions of the *Criminal Code* regarding bawdy houses and related offences. The Police Service has assigned one police officer to coordinate its activities in each of the Region’s major areas, as well as acting as a liaison with the Markham’s enforcement unit.

Furthermore, Markham has imposed a cap and location restrictions on both body rub parlours and complementary health care providers allowing it to reduce the number of establishments through attrition. Of approximately 60 establishments in 2003, there are now 13 remaining. Markham Council will be considering a reduction in the current cap of 12 body rub and 12 complementary health care providers to reflect the current lower number.

In accordance with the *Municipal Act*, municipalities may not set standards, nor inspect, under a registry system. In Markham, once a holistic practitioner is registered, he or she is only obliged to ensure that all relevant information is up-to-date. Failure to do so could result in the registrant being de-registered and charged under the Body Rub and Complementary Health Care By-law. Markham has not de-listed any registrants to date.

The Markham holistic registry came into effect in late 2004 and a comprehensive evaluation of the registry system has yet to be done to determine its effectiveness.

Applicability to the City of Toronto

Prior to 1998, the City of Toronto licensed and regulated body rub parlours and attendants; it did not license or regulate holistic practitioners. In late 1998, the City introduced such a by-law and required applicants to demonstrate that they were either a member in good standing of a complementary health care organization, or had the education and training required to practise their holistic modality. Similar to Markham’s experience, illegitimate operators applied for the City’s business licence and used false education and training certificates to

meet the licensing requirements. The problem was more acute in Toronto due to the fact that the City only required proof of training or membership in an association and not both, as Markham does.

In 2004, City staff began consultations with holistic stakeholders to determine how best to eliminate illegitimate operators. The resulting June 20, 2005 report from the Executive Director of Municipal Licensing and Standards recommended that the eligibility criteria mirror that which is set out in Markham's registry system regarding membership in a professional holistic association. Council adopted this recommendation July 2005 and, in December 2005, Council approved a list of associations after each was successful in the application process.

The new requirements created two types of licensees: body rubbers and holistic practitioners. Because there is a cap on body rubs, there is only one other licence type (i.e., holistic) that lends itself to complementary health care providers. There is a strong incentive for questionable associations to get on the City's list of approved professional holistic associations, a difficulty not faced by Markham. For this reason, the City of Toronto is in the process of developing a monitoring and de-listing strategy.

Enforcement of body rubs and holistic centres and practitioners over the last few years has fallen primarily on Municipal Licensing and Standards enforcement staff. Although the Toronto Police Service has been involved in some major operations, such as the "Bring Them Home for Christmas" operation, police resources available to focus on this issue have been limited. Unlike Markham, which has benefited from having a police officer assigned to coordinate police enforcement, a similar arrangement does not currently exist within the Toronto Police Service.

Table 2: Body rub and holistic regulatory and enforcement differences between the City of Toronto, and the Town of Markham.

	City of Toronto	Town of Markham
Number of by-laws	2	2
Number of business categories	2	3
Categories licensed / registered	2 / 0	2 / 1
Municipal enforcement	De-centralized (on a district basis)	Centralized
Enforcement co-ordinated with Police	No	Yes

Due to the renewal process, full implementation of the City's licensing system will not be achieved until March 2007. It is premature to determine the effectiveness of this strategy. City staff has been directed by the Planning and Transportation Committee to report in the first quarter of 2007 on the effectiveness of the new licensing system, however, it is recommended that this occur after full implementation has been achieved. Further, it is premature to determine the applicability of Markham's registry system as this strategy has yet to be evaluated by Markham.

In the preparation of this report, staff consulted with the appropriate officials from Markham.

Conclusions:

Staff conducted four consultations with the stakeholders and concluded that their recommendations may be summarized in two key areas: operational and policy.

The operational issues reside with the Municipal Licensing and Standards, Licensing Unit. The stakeholders would like to be aware of the process for Professional Holistic Associations to submit their information, update the Licensing Unit computer system, and provide input into the development of holistic training content for Municipal Standards Officers. These operational issues are steps that the Licensing Unit would implement in order to ensure the new by-law is carried out successfully.

Staff will continue to conduct consultations with the holistic stakeholders regarding the policy issues of developing a de-listing process for Professional Holistic Associations.

Markham's registry system has yet to be evaluated to determine its effectiveness. The City of Toronto's holistic licensing system will not be fully implemented until March 2007. It is premature to comment on the effectiveness of this system until full implementation has been achieved and an evaluation conducted. In the interim, Municipal Licensing and Standards will seek to achieve a co-ordinated enforcement strategy regarding illegal holistic centres and practitioners with the Toronto Police Service.

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