

# Pam McConnell



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**November 27, 2007**

## **Toronto East York Community Council**

### **MOTION**

#### **Liquor Licence Application - Polson Pier, 11 Polson Street**

**Moved By: Councillor McConnell**

#### **SUMMARY:**

Polson Pier Entertainment Inc. ("Polson Pier") is the occupant of an establishment located at 11 Polson Street operating under the name Polson Pier, and on October 25, 2007, they submitted an application for a liquor sales licence to the Alcohol and Gaming Commission of Ontario ("AGCO") to permit an indoor licenced area for approximately 4100 patrons, and an outdoor licenced area for approximately 2800 patrons.

From 1996 to July, 2006, 11 Polson Street was occupied by 1132165 Ontario Limited, operating a licenced establishment under the name Docks on Cherry (the "Docks"). The Docks contained an indoor licenced area for approximately 3000 patrons, and an outdoor licenced area for approximately 7000 patrons. Between 1996 and June, 2004, City Councillors received complaints from residents regarding the poor operation of the Docks and misconduct of its patrons and were advised by Municipal Licensing and Standards of certain violations by the Docks of the Municipal Code and applicable Zoning By-laws. In response, City Council adopted Notice of Motion J(34) on June 24, 2004, instructing the City Solicitor and Staff to oppose a renewal and expansion of the Docks' liquor licence because the past and present conduct of the persons involved in the operations of the Docks afforded reasonable grounds for belief that the Docks would not carry on business in accordance with the law and integrity and honesty, and the continued operation and any expansion of the Docks was not in the public interest.

A twenty six day hearing was held at the AGCO between February 17, 2005 and November 24, 2005 and the AGCO heard evidence from several residents of the Toronto Islands regarding noise impacts from the Docks on their lives, and they heard evidence from the City regarding repeated noise by-law violations and several noise by-law charges that are still before the Courts. In a decision issued on July 24, 2006, the AGCO ordered the revocation of the liquor licence of the Docks finding it was not in the public interest having regards to the needs and wishes of the residents for the Docks to retain its liquor licence. On July 28, 2006 the Divisional Court issued an order staying the order of the AGCO that revoked the Docks' liquor licence pending an application for leave to appeal the AGCO decision. On March 28, 2007 the Divisional Court set

aside the order of the AGCO and remitted the matter back to the AGCO to conduct a new hearing that would include fresh evidence obtained after the July 24, 2006 AGCO revocation order. The AGCO and the City have sought leave to appeal the March 28, 2007 order of the Divisional Court to the Ontario Court of Appeal, and a motion for leave to the Court of Appeal is scheduled to be heard on January 31, 2008.

It is believed that Polson Pier has been involved in the operation of concerts and other events at 11 Polson Street during 2007, and during this time City residents have continued to be impacted by noise emanating from 11 Polson Street, including noise from an event on April 14, 2007 that prompted several residents to submit noise logs and other documentation of the event to the City's Municipal Licencing and Standards department. A charge for an alleged violation of the City's noise by-law stemming from the April 14, 2007 event was laid by Municipal Licencing and Standards and the matter is to be before the Courts on February 20, 2008. It is believed Polson Pier has retained a member of senior management from the Docks. Given the history of noise impact on island residents from 11 Polson Street as determined by the AGCO, the previous violations of the City's noise by-law, the new charge in front of the Courts, and the size of the licence being sought in terms of indoor and outdoor capacity, the granting a licence to sell liquor to Polson Pier for an establishment at 11 Polson Street would not be in the public interest. Even though the current application is for a total indoor and outdoor capacity of approximately 6900 patrons, approximately 3000 less than the total for the Docks, the proposed establishment would be one of the largest licenced facilities in Ontario if approved.

#### **RECOMMENDATIONS:**

1. City Council direct the City Clerk to advise the Registrar of the AGCO that the issuance of a liquor licence for Polson Pier Entertainment Inc., 11 Polson Street, is not in the public interest having regard to the needs and wishes of the residents, and that the Registrar should issue a Proposal to Review the liquor licence application.
  2. City Council request the AGCO to provide the City to Toronto with an opportunity to participate in any proceedings with respect to Polson Pier.
  3. City Council authorize the City Solicitor to attend all proceedings before the AGCO in this matter and direct the City Solicitor to take all necessary actions so as to give effect to this Motion.
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