

NOTICE OF MOTION**Licensing of Boulevard Café at 1186 Queen Street West****Moved by:** Councillor Giambrone _____**Seconded by:** Councillor _____**SUMMARY:**

Approximately a year ago, the Northcote Kitchen restaurant at 1186 Queen Street West was turned down by the City for a boulevard café license, due to a low response rate during the statutory polling process. In accordance with the provisions of former City of Toronto Municipal Code Chapter 313, this decision is now under a two year moratorium period.

The owners have written to Toronto and East York Community Council, Councillor Giambrone and Licensing Services and requested to appeal this decision. Councillor Giambrone has worked with community residents to negotiate a set of conditions on the boulevard café license. Based on feedback from residents at a community meeting on 10 April 2008, as well as the results of an informal poll, Councillor Giambrone believes the majority of the community would support a boulevard café at this location with the proposed conditions.

As the time limitation for the appeal period has already expired, Community Council would have to grant the owner's request for an exemption to the time limitation for their appeal.

RECOMMENDATIONS:

1. That Toronto and East York Community Council grant the Northcote Kitchen at 1186 Queen West an exemption to the time limitation for them to appeal the original decision on their boulevard café application;
2. That Toronto and East York Community Council authorize Municipal Licensing and Standards to implement the proposed boulevard café license at 1186 Queen Street West; and include directly in the license all the following conditions agreed upon by the community and the owners:
 - a) The boulevard café shall be closed and cleared by 10:00 pm, and no more than 35 people shall be present on the boulevard café at any time. In 2009, the closing shall be moved ahead to 10:30 pm, and the capacity to 40. Starting in 2010, the closing time shall be moved to 11:00 pm, and the capacity to 50. These annual increases in hours and capacity shall be subject to approval by the ward councillor;
 - b) A barrier shall be erected of not less than 36 inches in height at the north end of the boulevard café;

- c) There shall be at least one tree planted on the boulevard café;
- d) Security staff shall make all reasonable efforts to ensure that customers and other people in the areas surrounding the establishment do not make excessive noise or engage in unruly behaviour, such as singing, shouting or using offensive language, until one hour after the closing of the establishment;
- e) The establishment shall not permit customers to bring or drink alcoholic beverages outside the licenced areas;
- f) No music or amplified sound shall be played, at any time, on the boulevard café;
- g) No loading, unloading, delivering, packing, unpacking or otherwise handling of containers, products or materials shall be permitted outside of the establishment between 11:00 pm and 7:00 am (9:00 am on Sunday and statutory holidays);
- h) Clearly visible signs, will be posted, at least 8.5” x 11” in dimensions, near each exit of the establishment, and any entrance to the boulevard café, reminding customers that people live nearby, and asking them to be respectful of neighbours by keeping noise to a minimum, and further signs shall be placed at the North end of the boulevard café and located on the Queen Street frontage of the establishment with the same or similar wording. The language, layout, and location of this signage shall be determined in cooperation with residents;
- i) Clearly visible signs, will be posted, at least 8.5” x 11” in dimensions, within the establishment and on the boulevard café stating that concerns regarding the establishment including noise levels and other disturbances should be brought to the attention of the management. The signage will also list other relevant contacts to whom to address concerns, including contact information for City noise and licensing enforcement, the contact information for the residents association, the contact information for the City Councillor’s office, and contact information for the AGCO. The language, layout, and location of this signage shall be determined in cooperation with residents;
- j) An answering service will be provided as part of the establishment’s telephone service indicating the cellular phone number of the management for inquiries regarding emergencies, noise complaints or other concerns on the message. In addition, an email address will be made available for community members to contact regarding any concerns about the establishment on the corporate website. Residents will be able to quickly reach a manager or responsible staff member, when the establishment is open;
- k) The boulevard café shall adhere to all conditions of the Muncipal Code, Chapter 313-36-F-2, with an exception provided for item (f), which requires that no part of a boulevard café may operate less than 25 metres from a residential zone;
- l) The establishment will, at all times, adhere to the City of Toronto Noise Bylaws, and Federal and Provincial Workplace Health and Safety laws and regulations setting noise limits;

- m) The establishment agrees to a maximum sound level of 90 dBA. The establishment will mount a sound meter in a visible area within the premises, which will be operational at all times when the establishment is open for business, and will be configured to provide a visible indication of when a sound level of 90 dBA is exceeded. Should any laws or bylaws require a lower maximum dBA, they shall take precedence and the sound meter will be reconfigured to indicate when the lower maximum legislated dBA is exceeded.
- n) A member of the staff will be designated to ensure the conditions of this agreement are adhered to;
- o) These conditions shall come into effect either one month after the boulevard café is approved by Toronto and East York Community Council, or when the boulevard café opens for business, whichever is earlier;
- p) None of these conditions shall be removed or modified without public consultation with the neighbours;
- q) An informal poll of area residents will be conducted, in accordance with an agreement between the establishment and area residents confirmed by the City Councillor's office, including a consultation that will include a public meeting and distribution of an informational flyer and ballot vote based on these conditions. This condition was completed on 17 April 2008;
- r) It is acknowledged that Toronto and East York Community Council and the office of Municipal Licensing and Standards each have the power and authority to revoke the municipal authority for operating the boulevard café should either determine that there has been non-compliance with the conditions set out in this agreement, subject to a public hearing at Community Council;
- s) Seating, at tables, shall be provided for all customers who are being served on the boulevard café;
- t) Beginning no later than the first day the boulevard café opens, the restaurant shall be open regularly for lunch service, and open at least one day a weekend for brunch;
3. That Toronto and East York Community Council authorize Municipal Licensing and Standards to monitor the Northcote Kitchen at 1186 Queen Street West, both indoors and outdoors, and including regular and random night-time inspections, both during the boulevard café's hours of operations and late at night, for compliance with the above conditions and adherence to all other relevant bylaws, and report back to Community Council in approximately one year, prior to their permit renewal for the 2009 boulevard café season.

6 May 2008

According to Chapter 27, Council Procedures:

Fiscal Impact Statement provided	
Should have Fiscal Impact Statement prior to debate	*

Requires two-thirds to waive requirement if Council wishes to debate	
Should be referred to Committee/Community Council	
Requires two-thirds vote to consider at this meeting	
Motion Recommendations are Urgent – (e.g. Health and Safety)	

* Deputy City Manager and Chief Financial Officer to advise.

Members should discuss their Motions with appropriate City staff to ensure the correct information is included.

Motions Without Notice:

According to Chapter 27, Council Procedures:

Fiscal Impact Statement provided	
Should have Fiscal Impact Statement prior to debate	*
Requires two-thirds to waive requirement if Council wishes to debate	
Should be referred to the Committee/Community Council	
Requires two-thirds vote to consider at this meeting	
City Clerk, in consultation with the Chair, agrees that the Motion Recommendations are Urgent – (e.g. Health and Safety)	

* Deputy City Manager and Chief Financial Officer to advise.