

MOTION WITHOUT NOTICE**Liquor Licence Application - 443 Parliament Street - Wing Machine**

Moved by: Councillor McConnell

Seconded by: Councillor Fletcher

SUMMARY:

City Council on June 19, 20 and 22, 2007, by its adoption, without amendment, of Motion M78, headed "Liquor Licence Application Prohibition - 443 Parliament Street", requested that the Registrar of the Alcohol and Gaming Commission of Ontario ("AGCO") not permit any person to make an application for a liquor licence in respect of 443 Parliament Street ("Premises") for up to two years.

There have been meetings between 1747710 Ontario Inc. ("Applicant"), its lawyer, Councillor McConnell, City staff, residents and a lawyer for the AGCO to address the concerns of the residents because of the problems caused by the owner of the prior establishment, Cabbagetown Restaurant and Bar. As a result of the meetings and consultations with the residents, the parties have now agreed to conditions to be attached to the liquor licence for the Premises. This is an urgent matter because the conditions are time sensitive with respect to the receiving of a liquor licence for both the inside and patio areas of the Premises, conditional on having first opened and operated the Premises without a liquor licence for a period of time without complaints. This matter cannot first be considered by the Toronto East York Community Council because it next meets on April 8, 2008 and the next Council meeting will not be held until April 28, 2008.

RECOMMENDATIONS:

1. That City Council support the application of 1747710 Ontario Inc. ("Applicant") for a liquor licence for Wing Machine, 443 Parliament Street ("Premises") provided that Conditions No. 5, 6, 7, 8, 9, 10 and 11, as set out in Schedule A attached hereto, and as modified, if necessary, to the satisfaction of the City Solicitor, are attached to the liquor licence and that Conditions No. 1, 2, 3 and 4 be incorporated into an agreement between the Applicant, the Alcohol and Gaming Commission of Ontario ("AGCO") and the City of Toronto.

2. That, subject to the approval by the Registrar or Board, as the case may be, of the AGCO, Conditions Nos. 5, 6, 7, 8, 9, 10 and 11, as set out in Schedule A, be attached to any liquor licence issued to the Premises and the Applicant shall agree that prior to the issuance of a liquor licence, it shall file with the Registrar written consent to the said conditions being attached to any liquor licence for the Premises.
3. That the City Solicitor be authorized to make such stylistic and technical changes to the said conditions as may be required.
4. That the City Solicitor be authorized to attend all proceedings before the AGCO in this matter and be directed to take all necessary actions so as to give effect to the above.

March 3, 2008

Attachment - Schedule "A"

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	
Is before Council for debate	(√)
Chair agrees that the Motion Recommendations are Urgent - AGCO	(√)

* Deputy City Manager and Chief Financial Officer to advise.

SCHEDULE A

Proposed Licensing Procedure and Conditions for Wing Machine Restaurant 443 Parliament Street (“Premises”)

The proposal is that all of these items will be contained in an agreement between the City, the Registrar of Alcohol and Gaming (Registrar), the Applicant.

The following two items deal with the procedure for processing the Applicant’s application for a liquor licence. They will be irrelevant once the notice periods have been completed (and a licence cannot be issued before the notice period has been completed), therefore, they will not become conditions on the licence.

1. The Applicant agrees that the Registrar’s Notice of the Application shall give the residents of the municipality twelve weeks to make written submissions to the Registrar respecting the Application. The twelve week period for making written submissions to the Registrar will only commence after the Applicant has given written notice to the Registrar confirming that the Premises are open for business. The Premises shall stay open for business during the entire written submission period, failing which the Application will be deemed to have been withdrawn by the Applicant. In any event, the Applicant agrees that no licence to sell liquor at the Premises shall be issued by the Registrar before May 16, 2008. Any licence issued before August 1, 2008 shall only licence the indoor areas.
2. The Applicant further agrees that the Registrar’s Notice of the Application for the outdoor licensed area shall give the residents of the municipality 10 weeks to make written submissions to the Registrar regarding the application for an outdoor licensed area. The ten week period for making written submissions to the Registrar shall only commence after the Applicant has given written notice to the Registrar confirming that the proposed outdoor licensed area is open for the sale and service of food and beverages. The proposed outdoor licensed area shall stay open for business during the entire written submission period, failing which the Application will be deemed to have been withdrawn by the Applicant. In any event, the Applicant agrees that no licence which includes any outdoor licensed area shall be issued before August 1, 2008.

Please note: Under section 8(4) of the Liquor Licence Act, the Registrar must consider any written objections received from residents of the municipality during the notice period. After considering the objections, the Registrar can (a) call a public meeting (usually done by conference call) (b) issue a Notice of Proposal to Review the Application (which starts the Board hearing process to determine if an application should be approved or not) or (c) refer the objections to a Board member to review. If the application is referred to a Board member, that Board member can either approve the application, if he or she is of the opinion that the objections are frivolous or vexatious, or send the application back to the Registrar for a public meeting or a Notice of Proposal to Review the application.

These two items can only be elements of the Agreement, but cannot be conditions on the licence because the Registrar cannot enforce these aspects of the Agreement.

3. The Licensee shall construct and erect a sound barrier to reduce noises and sounds from the outdoor patio and shall submit a landscape plan for the outdoor patio, both to the satisfaction of the local Ward Councillor.
4. The Licensee shall meet with the residents of the neighbourhood by October 15, 2008 and review with them the operation of the Premises with respect to the sale and service of alcohol and discuss with them any complaints, suggestions for improvement or comments that the residents may have.

The following items can become conditions on the licence as part of an Agreement with the Applicant.

5. The Licensee shall store and retain the video and digital records from each video security camera for at least 30 days and make the DVD or video tape available immediately to police officers or liquor licence inspectors upon request.
6. At all times while the Premises are open, the Licensee shall ensure that there are clearly visible and functioning high-resolution video security cameras so as to view, monitor and record each entrance and exit of the Premises, the public space inside the Premises, the outdoor patio and the laneway behind the outdoor patio.
7. The Licensee shall not play, or permit to be played, music, whether live or recorded, on the outdoor patio.
8. The Licensee shall cease the sale and service of alcohol on the outdoor patio every night at 9:00 p.m. and shall remove all evidence of service by 9:45 p.m. and shall close the outdoor patio at 10:00 p.m.
9. There shall be no access to the outdoor patio except through the Premises.
10. The Licensee shall post at the entrance to the Premises a sign stating that "Premises Under Video Surveillance".
11. The Licensee shall post at the entrance to the Premises a sign stating that "Management Reserves the Right to Refuse Entry or Service".

The standard condition, which is imposed on all new licences, requiring specified classes of employees to have completed a Board-approved server training course, would also be applied to this licence, should it be issued.