

Licensing of Children's Entertainers

Date:	September 26, 2011
To:	Licensing and Standards Committee
From:	Acting Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2011\Cluster B\MLS\LS11019

SUMMARY

The purpose of this report is to respond to a request from the Licensing and Standards Committee to examine whether children's entertainers should be municipally licensed.

There is insufficient evidence that the business of children's entertainment poses a risk to children. There have not been any publicly documented cases in the Greater Toronto Area that demonstrate or suggest that children's entertainers as a group pose a risk to the safety of children.

The term "children's entertainer" is an ambiguous one, incapable of precise definition. This vagueness makes it difficult, if not impossible, to regulate children's entertainers as a class of business. Furthermore, as the City only licenses businesses, such regulation would not capture a significant portion of children's entertainers.

As well, only a Vulnerable Sector Verification provides a sufficiently-detailed criminal history of an individual in order to protect children from sex offenders. This type of police check can only be requested by an agency or organization for employment and volunteer purposes. Municipal Licensing and Standards (MLS) does not have access to this extensive type of record check.

This report was written in consultation with the City Solicitor.

Financial Impact

There are no financial implications arising from this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting on March 30, 2011, the Licensing and Standards Committee requested that the Executive Director, Municipal Licensing and Standards report on the licensing of children's entertainers. This request was made as a result of a petition that was submitted with 42 signatures in support of the City of Toronto licensing children's entertainers in order to regulate the business and to mandate criminal background checks for this license category.

ISSUE BACKGROUND

The intention of the petition is to persuade the City to license children's entertainers and require them to have police record checks. Supporters of such regulation believe that such measures could prevent someone charged or convicted of specific crimes from becoming a children's entertainer and point to the case of an individual who pled guilty to child pornography charges in a Napanee court. According to the Toronto Star (May 25, 2011), this person was a well-known children's entertainer who worked as a clown for more than 20 years. He worked private parties, fairs and festivals. Although he worked as a children's entertainer there was no suggestion that he used his work as a clown to lure children.

This petition was originally unsuccessfully directed to the Province of Ontario. The Premier's response to having the province license children's entertainers and require mandatory police background checks was that it was up to parents to make sure their children are safe around entertainers such as clowns (Canadian Press May 25, 2011 as cited on the CTV website).

The pursuit of having children's entertainers licensed in Ontario has been ongoing by the petitioner for over ten years.

COMMENTS

The petition brought forward to the Licensing and Standards Committee was based on concerns that children are at risk of being abused because children's entertainers are unregulated.

The petition stated:

Whereas there is an urgent need to protect children from all forms of violence, abuse, injury, sexual abuse and exploitation and whereas, there has been incidents [sic] occurring involving entertainers for children charged and convicted of

child pornography We the undersigned petition the Legislative Assembly of Ontario as follows:

To regulate entertainers for children. A license that includes a criminal background check....Why are entertainers for children excluded from licensing and no permit required? There is an automatic assumption by the public that clowns and Santa Claus are safe strangers. Most entertainers for children are self employed.

We must keep children safe.

The petition did not clearly define who MLS should consider to be a children's entertainer for the purpose of licensing. There is no clear definition or criterion to determine who would be captured in the category of children's entertainer. Would it include all people who dress up in costume and or interact with children or people that entertain children on a voluntary basis? It is unclear if party planners who create themed birthday parties for children such as princess parties, or spa parties with manicures and pedicures would also be considered children's entertainers.

There are no documented cases in Canada that demonstrate or suggest that children's entertainers as a group pose a risk to the safety of children, nor is there evidence to show that a children's entertainer has used his or her job as a means to lure and abuse a child. The two-well publicized cases in Ontario referenced by the petitioner involved a man in Napanee who worked as a clown and a man in Barrie who worked as a Santa Claus. They were both convicted for possession of child pornography. Despite their convictions, there was nothing linking the two men to luring or abusing children as a result of their work as children's entertainers.

Children Entertainer's Associations and Networks

MLS staff identified and contacted various associations and networks that provide memberships to children's entertainers in the City of Toronto. The identified associations and networks were informed of the petition put forward at the Licensing and Standards Committee and were sent a follow-up letter and questionnaire. The associations were asked to circulate the questionnaire to their members for completion. The associations contacted were: Children's Entertainers Network, Children's Entertainers Association, World Clown Association, Clown's Canada, The Association of Therapeutic Clowns and Toronto Clown Alley (note: not all associations responded to MLS' letter and request to distribute and respond to the questionnaire). Only performers who worked in Toronto were asked to complete the questionnaire. Overall, the majority of respondents did not see the need for licensing.

Police Record Checks

A Vulnerable Sector Verification is a comprehensive criminal record check. It verifies whether an individual has a criminal record, including the existence of any pardoned sex offences, and provides any relevant details contained within the RCMP National Criminal

Records Repository. It also includes a search and verification of local police records where the applicant resides (Canadian Police Information Centre (CPIC) website).

One of the challenges of the Vulnerable Sector Verification process is that this type of police record check can only be requested by companies and agencies that seek to hire employees or obtain volunteers. The companies and organizations seeking the record check must prove that they work with vulnerable groups in order to be eligible to have an agreement with the Police Services to collect police record information on a potential hire or volunteer. Applicants of the Vulnerable Sector Verification must sign a waiver for their information to be released to the organization or company who is hiring them; however a copy of the Vulnerable Sector Verification is given to applicants.

Municipal Licensing and Standards does not currently have access to this type of police record check. MLS only has access to a general name-based record check that identifies whether an applicant for a business license has a conviction.

Conclusion

One of the challenges with licensing children's entertainers is that the term "children's entertainer" is very broad. What constitutes children's entertainment and who would be considered an entertainer for the purposes of licensing is unclear.

MLS licenses businesses and trades. Those who entertain children on a volunteer basis would not be captured under a business licensing regime and therefore a police record check would not be required by the City of Toronto.

In addition, there are no publicly documented cases in the Greater Toronto Area where a sex offender who worked as a children's entertainer (however broadly defined) has used his or her job to commit a sexual offence against a child. Furthermore, there is nothing to stop an individual from dressing up in character or interacting with children. ML&S cannot regulate everyone who wants to interact with children, nor are all people who interact with children considered to be children's entertainers. It would therefore be impossible to license and regulate everyone who decides to perform shows or lead activities with children, especially when the activities are not conducted as a business. As a result, staff do not believe that there is a case for licensing children's entertainers.

CONTACT

Dawn-Marie Morgan
Policy and Research Consultant
Municipal Licensing and Standards
Phone: (416) 397-5464
Fax: (416) 397-5463

SIGNATURE

Bruce Robertson
Acting Executive Director
Municipal Licensing and Standards

ATTACHMENTS

Appendix A: References

APPENDIX A: REFERENCES

Canadian Police Information Centre (2011). *Criminal record factsheet* retrieved from <http://www.cpic-cipc.ca/English/crfactsheet.cfm> July 26, 2011.

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