

From: Donald Pardoe
To: Ing, Lisa (Transportation); Pereira, Betty
Date: 26/09/2007 10:48:37 AM
Subject: RE: 2982 Bloor Street - Big Papa's

Good Day Ladies,

Since May of 2006, Right-of-Way Management staff has dealt with a number of complaints from Agnes Faraci regarding the patio in front of 2982 Bloor Street ("Big Papa's/Tony Pistola's Restaurant").

5/25/06 - Staff received a complaint regarding a possibly unlicensed patio on City property at 2982 Bloor Street West. Chairs and tables are being placed on sidewalk every afternoon and they also have a sign fasten by drapery cords over the sidewalk.

6/1/06 - Staff inspection revealed the patio enclosed by fence provided the minimum 1.5 metres of clear sidewalk required for pedestrians. No signs were found (at time of inspection). The sign issue was forwarded to Municipal Licensing & Standards (MLS), for a follow up inspection.

MLS confirmed that this patio is in fact Licensed.

6/20/06 - Staff received another complaint from Agnes Faraci that the restaurant is not conforming with their Licensing Agreement. Right-of-Way Management (ROW) staff after reviewing the MLS Licensing Agreement served a 'Notice' to remove the outdoor cafe/patio and all it's components within 10 business days. The 'Notice' was hand delivered to the day assistant manager (Nick) and 2 subsequent copies mailed, 1 by regular mail, and the other by registered mail to the building owners.

11/27/06 - Staff received another complaint from Agness Faraci that "Big Papa's Restaurant" still has their cafe/patio on the sidewalk, and that another Bloor Street West business, Beaulieu Vision 2938 Bloor Street continues to leave their door open which blocks pedestrian traffic on the sidewalk. Staff spoke to the owner of Beaulieu Vision and instructed them to not leave their door open.

2/8/07 - ROW staff again inspected 2982 Bloor Street West; all component of boulevard cafe/patio have been removed, and our file on this matter was closed.

5/14/07 - Staff received another complaint from Agnes Faraci that the fence at 2982 Bloor St. W. was moved out to an area that provided less than the minimum required clear pedestrian sidewalk (as per the Agreement), also their signs, and possibly a tree in a planter box, are being stored outside of the patio enclosure area, and that another restaurant at 2994 Bloor St. W. (Merlot) was also in violation of their Agreement, as they did not provide the minimum required free and clear sidewalk space. Also, both restaurants have anchored their fences to the sidewalk.

5/14/07 - Staff again spoke with Nick, the assistant manager at 2982 Bloor St. W. after having checked to find nothing being stored outside the fence other than the tree (which was not creating a hazard for pedestrians). Staff remind

him at that time not to store any items beyond the patio fence. The sidewalk was checked for the 1.5 metre clearance; 2.46 metres of clear sidewalk was provided at that time. 2994 Bloor Street West (Merlot Restaurant) was also checked, they also provided the required free and clear sidewalk space. However, both restaurants did in fact have their fences anchored to the sidewalk.

5/15/07 - Agness Faraci called regarding inspection information, she stated the required 1.5 meters of clear sidewalk space is not correct as the Agreement clearly states that 2 meters is the minimum clear sidewalk space that is required, and the fence is attached to the sidewalk, which is also a violation of the Agreement which states "... no permanent anchoring of fence to sidewalk ...".

The attachment of the fence to the sidewalk issue was discussed by Right of Way Management (Allan Smithies, Don Pardoe) and MLS (Curtis Sealock), all parties agreed that this issue is one of safety, and the patio/cafe fence in principal should, whenever possible, be attached to the sidewalk to prevent accidental dislodging or falling over of said fence unless otherwise specifically stated in the individual Licensing Agreements.

A copy of the Licensing Agreement between the City and Merlot Restaurant 2994 Bloor street West was reviewed by ROW staff.

The cafe/patio Licensing Agreement for "Merlot Restaurant" did not contain the "... no permanent anchoring of fence to sidewalk ...". clause that was present in "Big Papa's" Agreement.

Having reviewed both Agreements, and verifying a clause in By-Law 41-93 which states a minimum sidewalk clearance of 2 meters for an area along Bloor St. W. which encompasses both of these restaurants, it was determined that 2994 Bloor Street W. was in not violating the by-law as they are providing in excess of 2 metres sidewalk clearance. However, 2982 Bloor Street W. was in fact in violation, for encroaching in to the 2 metre clear sidewalk area (by 7.6 cm.) and by having their fence "permanently anchored" to the sidewalk.

5/15/07 - Staff once again spoke to the assistant manager (Nick) and verbally warned him that the fence would have to be moved back, and quite possibly left unanchored as per the requirements of their Licencing Agreement.

He was very accommodating with the following statement "... just tell me what to do, and when to do it, and we will take care of it..."

5/17/07 - Staff received phone call from owner of "Big Papa's". He was very concerned about the "anchoring of the fence" and voiced his concern that after hours there are a lot of kids in the area who might move the fence onto Bloor St., steal it, or knock it over into his store window. He was advised to contact the Police to deal with these issues should they occur, but he must abide by the Licencing Agreement. He was not happy but agreed to make all the required changes.

5/18/07 - 'Notice' to relocate and not anchor the fence was delivered.

5/24/07 - Staff received another call from Agnes Faraci where she was informed of the action taken. She then complained that "Big Papa's" was putting out a sign during the lunch hour, this was obstructing pedestrian traffic on the sidewalk. Also, they were possibly violating the noise By-Laws by playing their music late into the night. Staff instructed her to call MLS as these issues fall into their jurisdiction, not ours.

5/29/07 - Nick of "Big Papa's" called staff, left message, all the requirements as per the 5/18/07 'Notice' have been completed, please come to re-inspect.

5/29/07 - Staff received another call from Agnes Faraci that the fence has been moved back and the anchors removed, "however, they have attached long chains to the fence, and the other end is very loosely attached to the building wall, more than likely to move it at their leisure, back and forth as they want..." Staff informed her that if the chain is attached to the building wall this is private property and as such not in our jurisdictional area of control, she would have to go through MLS on this matter, however, it is more than likely a method only to secure the fence so that it can not be removed by vandals, and we do not have a problem with this. She was very upset that we would not deal with her complaint. Staff also instructed her that if "Big Papa's" did what they were asked to do in their notice, we would re-inspect the fence, and subsequently close our file on the issue.

5/30/07 - Staff again inspected the fence at 2982 Bloor Street W. 2 metres of sidewalk space free and clear exists, and the fence is no longer anchored to sidewalk, all requirements of Agreement have been met.

7/9/07 - Staff received another complaint from Agnes Faraci that the fence has been moved out towards the curb again. A call was also received from the owner of "Big Papa's" in which he states that their fence was ripped out of the wall over the weekend, they have since re-attached it. Inspection by staff verified the fence was where it is supposed to be.

7/17/07 - Staff received another complaint from Agnes Faraci that the fence has been moved out towards the curb again, and they always move their sign out onto the sidewalk for the lunchtime crowd. Inspection by staff verified the fence was where it is supposed to be, no sign on sidewalk at time of inspection.

7/25/07 - Staff received another complaint from Agnes Faraci where she stated "I know they abide by the requirements of the Agreement during the daytime through the week, but at night and on the weekends the fence and the signs come out." Staff informed that her that we don't have enforcement staff working nights and weekends. She would have to provide evidence of any such action taking place. No evidence was ever submitted.

After July 25, 2007 Agness Faraci would telephone staff on a fairly regular basis, her main complaint involved the patio fence being moved about. Staff would respond and find the enclosure in it's proper place. After a number of unfounded complaints we closed our file.

I hope this helps !

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