

**William H. Roberts**  
**Barrister & Solicitor**

881A Jane St., Ste. 203A  
Toronto, Ontario  
M6N 4C4

Bus: (416) 769-3162  
Fax: (416) 769-4223  
[willadvocate@aol.com](mailto:willadvocate@aol.com)

LS 19.1.2

March 18, 2013

Councillor Cesar Palacio  
Chair – Licensing & Standards Committee  
City of Toronto  
100 Queen Street West  
Toronto, Ontario  
M5H 2N2

**RE: Review of Adult Entertainment Club Regulations  
Item LS 19.1**

Dear Councillor Palacio:

I've been asked to review the City's proposal of licensing shift managers in Adult Entertainment Clubs. Details of this proposal are found within the staff report of March 14, 2013, before the committee.

**FAILURE TO PROVIDE ADEQUATE NOTICE**

**This matter should be deferred to allow appropriate consultation with the newly defined category of designated managers.**

Firstly, whether minimal technical notice may or may not have been given, when viewed from the direct impacts on the new categories of licensees, there is a failure of natural justice, which is open to being challenged by the affected parties.

The city's staff report did make known that a determined effort to reach out to appropriate stakeholders in their examination of their specific proposal to license operators, however staff did not make a determined effort to contact shift managers. From a legal standpoint, it is reasonable to presume that it would be essential to consult with affected parties on an original topic that involves their own particular job description.

**POTENTIAL CONFLICT WITH PROVINCIAL LAW**

Yet, staff failed to consult adequately with the very group of persons that they wish to license and regulate – the shift managers themselves. Had the staff consulted with industry shift managers, they would have most certainly discovered whether shift managers are already licensed by the Province as security personnel.

To now request a shift manager who already holds a security license to also now obtain a Designated Manager's License, would be a duplication to say the least and may well be a breach of 11 (1), under the City of Toronto Act since a municipality cannot be in conflict with a

(2)

provincial regulation. As structured, there appears to be a conflict. Again, consultation would have revealed this fact.

This provision specifically relates to section 8 (2) of the City of Toronto Act that defines general powers for business licensing and allows the municipality the power to license a business, occupation or a trade.

Consultation would have revealed the need for exceptions to the proposed licensing requirement, in this case. For example, the existing verifications under the Private Security and Investigative Services Act would be duplicated for the same person, who will be now called a Designated Manager.

And most importantly, they are to be held by the same person for the same job. A singular worker should not have to be required to be the holder of two separate licenses with the identical criteria to obtain both. One of them would therefore be considered redundant. The staff report makes an incorrect presumption that the holders of any license under the Private Security and Investigation Services Act are not also shift managers.

It strikes me that because shift managers are controlled under smart-serve and the Private Security and Investigative Services Act, the city is obliged to defer this matter for staff to confirm that there is no conflict.

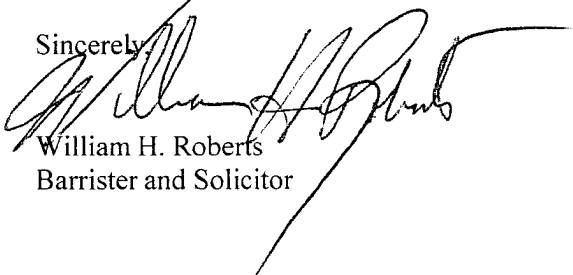
#### **LACK OF SPECIFICITY IN THE DEFINITION OF “DESIGNATED MANAGER”**

The staff report is not clear as to specific job description for designated managers. The present job description lacks specificity and does not take into account how clubs operate individually. Consultation with the shift managers would clarify this point. Not all shift managers have control or final say over operations of health and safety.

#### **CONCLUSION**

I understand that a request before the committee from the industry Association will be that the committee defers staff's recommendation back to staff for specific outreach and consultation with the intended and targeted workforce (shift managers directly). I would highly recommend that this recommendation of the licensing of shift managers be deferred back to city for consultation with the intended licensees before bringing this particular matter back before committee for approval, as the industry Association recommends.

Sincerely,



William H. Roberts  
Barrister and Solicitor