

City Council

Notice of Motion

MM39.23	ACTION			Ward:19
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Liquor Licence Application to Remove Condition: 2270121 Ontario Inc. o/a Church Aperitivo Bar, 1090 Queen Street West, Toronto - Licence No. 814239 - by Councillor Mike Layton, seconded by Councillor Ana Bailão

** Notice of this Motion has been given.*

** This Motion is subject to referral to the Toronto East York Community Council. A two thirds vote is required to waive referral.*

** This Motion relates to an Alcohol and Gaming Commission of Ontario Hearing and has been deemed urgent.*

Recommendations

Councillor Mike Layton, seconded by Councillor Ana Bailão, recommends that:

1. City Council direct the City Clerk to advise the Licence Appeal Tribunal (“LAT”) and the Alcohol and Gaming Commission of Ontario that the City of Toronto objects to the application to remove a condition attached to the liquor licence for Church Aperitivo, 1090 Queen Street West (the “Premises”), as no change of circumstances has occurred at the Premises to warrant its removal, and that the LAT should issue a Proposal to Refuse the application.
2. City Council request the LAT to provide the City of Toronto with an opportunity to participate in any proceedings with respect to the Premises.
3. City Council authorize the City Solicitor to attend all proceedings before the LAT in this matter and be directed to take all necessary actions so as to give effect to this Motion, including amending the condition that is subject to this application, in consultation with the Ward Councillor.

Summary

2270121 Ontario Inc. (the “Licensee”) has applied to the Licence Appeal Tribunal (LAT) to remove the following condition from the liquor licence of Church Aperitivo Bar, 1090 Queen Street West (the “Premises”):

The Licensee shall ensure that any sound resulting from the indoor operation of the business is not audible beyond the lot line of the property on which the premises is located. The facility must be constructed in such a manner that all sound waves are

contained within the perimeter of the facility. Sound from inside the premises must not be audible beyond its perimeter, whether on the street or in nearby homes. Sound referred to in this clause includes sound that is generated by loudspeakers, conversation by patrons, and sound generated by equipment within the premises. Sound emanating from the Licensee's premises will be considered non-compliant if heard at any point in a public street, public or private laneway, or through a parting wall or ceiling.

The Licensee has proposed to replace the above condition with the following:

The Licence holder agrees to make all reasonable efforts to ensure that any sound resulting from the operation of its business does not disturb nearby residents.

In June 2013, the Licensee applied to the LAT to remove a condition from their liquor licence requiring a designated employee to make efforts to ensure people in the immediate area of the Premises were not disturbing residents. At its meeting July 16, 17, 18 and 19, Council adopted Item No. MM37.39, objecting to the removal of the condition. The City has been made an added party to the proceedings at the LAT and a pre-hearing dealing with this application is scheduled for October 16, 2013. The LAT has issued an order that the current application to remove the noise condition will be joined with this previous application.

The City objects to the removal of the current condition from the licence as a change in circumstances that would warrant its removal or replacement has not occurred at the Premises. The condition that the Licensee is applying to remove was placed on the licence to limit noise impacts on area residents that occur from a restaurant/night club use. The replacement condition will not be effective at detouring noise. Noise impacts are the most prevalent type of impacts local residents face when restaurant/bars are located in close proximity residential properties.

A neighbouring resident has made numerous complaints to the City, the Alcohol and Gaming Commission of Ontario, and the police about excessive noise coming from the Premises. Her complaints have led to a prosecution for violating the City's noise by-law that is currently in the Courts, and an ongoing proceeding at the LAT for breaching the noise condition that is subject to this application.

The Premises intends to continue to operate as a restaurant/nightclub, and the removal of the condition will increase the potential for noise impacts on the area residents. A change in circumstance has not occurred to permit the removal of the condition and it is not in the public interest having regard to the needs and wishes of the residents to have the condition removed. The Licence Appeal Tribunal should issue a Proposal to Refuse the application.

This matter is considered urgent as a pre-hearing at the LAT dealing with the applications to remove conditions is scheduled for October 16, 2013.

(Submitted to City Council on October 8 and 9, 2013 as Member Motion MM39.23)

Background Information (City Council)

Member Motion MM39.23

<http://www.toronto.ca/legdocs/mmis/2013/mm/bgrd/backgroundfile-62198.pdf>