

City Council

MM52.26	ACTION			Ward:19
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Review of Liquor Licence - Cake Boys Entertainment Inc. o/a Studio Bar, 824 Dundas Street West, Toronto Licence Number 812879 - by Councillor Mike Layton, seconded by Councillor Ana Bailão

** Notice of this Motion has not been given. A two-thirds vote is required to waive notice.
* This Motion is subject to referral to the Toronto and 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 Solicitor to request the Alcohol and Gaming Commission of Ontario (AGCO) to issue a Notice of Proposal to suspend or revoke the liquor licence for 824 Dundas Street West – Studio Bar (the “Premises”) on the grounds that the past and present conduct of the Licensee affords reasonable grounds that the business will not be operating in accordance with the law, the operation of the business is not in the public interest with regards to the needs and wishes of the residents in which the Premises is located, and the Licensee has breached a condition attached to the licence.
2. City Council request the AGCO and the Licence Appeal Tribunal (LAT) to provide the City with an opportunity to participate in any proceedings with respect to a Notice of Proposal to suspend or revoke the licence for the Premises.
3. City Council authorize the City Solicitor to attend all proceedings before the AGCO or the LAT in this matter and direct the City Solicitor to take all necessary actions so as to give effect to this Motion.

Summary

Cake Boys Entertainment Inc. (the “Licensee”), operating as Studio Bar, 824 Dundas Street West (the “Premises”), was granted a liquor licence by the Alcohol and Gaming Commission (“AGCO”) in March, 2014, subject to the imposition of 8 conditions. These conditions were inserted into a Consent Agreement signed by the Licensee and the City and upon the agreement's execution the City removed its objection to the liquor licence. The conditions were the product of extensive community input with the focus on preventing noise impacts on residential dwellings abutting the rear of the Premises on Euclid Avenue. A primary condition

attached to the licence requires the Licensee to ensure that any sound resulting from the indoor operation of the business not be audible beyond the lot line of the property (Sound Condition). Prior to receiving their liquor licence the Licensee leased out the Premises for private events, and impacts from these events disturbed residents living on Euclid Avenue located to the rear of the Premises. Currently, there are four charges being prosecuted in the courts that stemmed from the private events; three for operating as a public hall keeper without a licence, and one for non-compliance with the City's noise by-law. Even though the events that led to the charges took place roughly a year ago, a trial date has still not been set for these matters.

Since the Premises received their liquor licence, complaints made by neighbouring residents about noise impacts have triggered 13 complaint investigations by Municipal Licensing and Standards (MLS). The complaints pertain to loud music being heard by residents late into the night. Based on evidence provided to MLS by the residents, the City has recently laid three new charges for violating the City's noise by-law for incidents that took place between March 26, 2014 and May 26, 2014. A first appearance date for August 25, 2014 has been scheduled in the courts for one of the three charges.

On April 26, 2014, the Licensee was advised by an MLS inspector that a charge would be forthcoming for operating the Premises as an Entertainment Establishment/Night Club without a licence. The Premises has a business licence to operate as an Eating Establishment, and a condition on the liquor licence requires the Premises to have this type of business licence. An Entertainment Establishment is not a permitted use at the Premises under the City's Zoning By-law.

It is evident from the current ongoing noise impacts felt by nearby residents that the noise by-law charges from last summer, and the recently laid charges, have not been a deterrent in changing the behaviour of the Licensee and management staff at the Premises. The sound levels emanating from the Premises are not being reduced. Therefore, the City is seeking a review of the liquor licence by the AGCO for a suspension or revocation under section 15(1) of the Liquor Licence Act (the "Act") based on the following three grounds:

1. Section 6(2)(d) of the Act, the past and present conduct of the Licensee and managers of the Premises affords reasonable grounds that the business will continue to disturb residents living to the rear of the establishment, as demonstrated by the recent charges under the City's noise by-law.
2. Section 6(2)(h) of the Act, the licence is not in the public interest having regard to the needs and wishes of the residents in which the premises is located.
3. The Licensee has breached the Sound Condition attached to the licence by continually producing sound that is disturbing nearby residents.

This matter is considered urgent as the current operation of the Premises continues to impact the neighbouring residents on Euclid Avenue.

(Submitted to City Council on June 10 and 11, 2014 as MM52.26)

Background Information (City Council)

Member Motion MM52.26

(<http://www.toronto.ca/legdocs/mmis/2014/mm/bgrd/backgroundfile-70365.pdf>)