



**STAFF REPORT
ACTION REQUIRED**

Municipal Interests in Liquor Licensing

Date:	January 7, 2015
To:	Licensing and Standards Committee
From:	Executive Director, Municipal Licensing and Standards
Wards:	All
Reference Number:	P:\2015\Cluster B\MLS\LS15001

SUMMARY

As directed by City Council, this report outlines work completed to date to address the City's interests in liquor licensing, including the development of a work plan, Steering Committee, Regulatory Working Group and Hospitality Industry Working Group. Recommendations that will improve the enforcement of municipal by-laws with respect to licensed establishments, restaurants, bars and entertainment establishments will be reported to City Council through Licensing and Standards Committee.

ML&S continues to build on and expand its partnerships with community and industry stakeholders including those represented by the Ontario Restaurant Hotel and Motel Association, Business Improvement Areas, residents' associations, as well as its enforcement partners, the Alcohol and Gaming Commission of Ontario and the Toronto Police Service. These stakeholders will participate in the newly formed Working Groups and public and stakeholder consultation sessions, conducted from February to April 2015.

RECOMMENDATIONS

The Executive Director, Municipal Licensing and Standards recommends that:

1. Licensing and Standards Committee receive this report for information.

Financial Impact

There are no financial impacts beyond what has already been approved in the current year's budget.

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

DECISION HISTORY

At its meeting of December 16, 2013, City Council requested the Executive Director, Municipal Licensing and Standards, in consultation with the Alcohol and Gaming Commission of Ontario to establish a working group consisting of the Chair, Toronto Police Services Board Community Safety Task Force, the Chair, Licensing and Standards Committee, interested Councillors, Toronto Association of Business Improvement Areas, relevant residents associations and industry associations for the purpose of establishing a framework for better compliance and enforcement of City by-laws as they relate to restaurants, bars and entertainment establishments and report back to the Licensing and Standards Committee with recommendations for moving forward.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.MM45.16>

At its meeting of April 1, 2014, City Council amended a report from Legal Services headed "Conditions Attached to Liquor Licences" and directed the City Clerk to issue objection letters to the Alcohol and Gaming Commission of Ontario for liquor licence applications subject to conditions being met.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.CC50.7>

At its meeting of June 26, 2014, Licensing and Standards Committee amended the report headed "Municipal Enforcement of Establishments with Liquor Sales Licences" by requesting that interested Councillors be included in the working group, the AGCO be invited to participate in the working group and staff report back on the status of the restaurant working group.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.LS29.2>

At its meeting of August 25, 2014, City Council directed the Executive Director, Municipal Licensing and Standards to review approval processes for liquor licence permits, review Chapter 591, Noise including exemption processes and discuss opportunities to enhance the sharing of information related to large scale events.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM55.21>

At its meeting of August 25, 2014, City Council directed the City Clerk to rescind the direction previously given related to issuance of objections to liquor licence applications.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.LS30.5>

ISSUE BACKGROUND

Restaurants, bars, and night clubs that sell alcohol require a liquor sales licence from the Alcohol and Gaming Commission of Ontario (AGCO) and a business licence from the

City of Toronto. Although these types of venues contribute to the cultural and economic vibrancy of the city, there are some whose operations have a negative impact on surrounding communities due to issues related to noise, litter and public safety. There are also concerns that venues licensed as restaurants are operating as late night drinking establishments or night clubs and not following the prescribed regulations.

The AGCO is responsible for the regulation of alcohol sales in the Province of Ontario, including licensing. The AGCO applies a risk-based assessment in their application review process to identify applicants, businesses or business locations that may pose a potential risk to public safety or public interest.

The evaluation of risk is based on the following criteria:

- past conduct
- liquor related infractions
- honesty and integrity
- financial responsibility
- experience and training

Based on this risk assessment, the Registrar of the AGCO may impose on the liquor licence a series of conditions approved by the AGCO Board, which are designed to mitigate the identified risks. Some of these conditions may include closing the venue at an earlier time than the prescribed hours, or having to submit a safety and security plan for the establishment.

Municipal Licensing and Standards (ML&S) uses the regulatory tools enshrined in the Toronto Municipal Code to address the impact of various types of businesses including those with liquor licences.

The City requires that establishments such as restaurants, bars and night clubs obtain a business licence, pursuant to Toronto Municipal Code, Chapter 545, Licensing. ML&S utilizes the Provincial Offences system to bring appropriate charges before the courts, and further has the ability to bring non-compliant establishments before the Toronto Licensing Tribunal.

COMMENTS

For many years, City of Toronto divisions have worked collaboratively with City Councillors, residents, business operators, business improvement area representatives and regulatory authorities to develop conditions that are placed on liquor licences that mitigate community nuisance concerns.

In April of 2014, the Alcohol and Gaming Commission of Ontario advised the City of Toronto that it was reviewing the manner in which conditions were being placed on liquor licences. The AGCO felt these conditions ought to be addressed through municipal means, and were not necessarily appropriately being applied in the context of regulating liquor licence sales and the AGCO's mandate, in accordance with the Liquor Licence Act.

In the past year, ML&S has developed a strong and collaborative working relationship with the AGCO and the Toronto Police Service, particularly in responding to establishments that are causing significant community nuisance. These efforts have focussed on enforcement and compliance.

In order to develop the scope of the review, ML&S staff held individual meetings with a number of key stakeholders. These stakeholders have included representatives from the AGCO including the Chief Operating Officer, the Deputy Director of Litigation, Senior Counsel, and the Director of Licensing and Registration, and Staff Sergeant Inspection and Investigation Bureau of the OPP. ML&S staff have met with the appointed Staff Superintendent representing the Toronto Police Service and numerous staff from City of Toronto Legal Services. ML&S staff have also met with key stakeholder representatives from the Ontario Restaurant Hotel and Motel Association, and Legal representatives for entertainment establishments/night clubs. These meetings have assisted with the development of the review governance structure, issue identification and work plans. These meetings have provided the opportunity to collectively develop the strategy to move forward as outlined in this report, to improve the compliance and enforcement of City by-laws, particularly for restaurants, bars and entertainment establishments.

Following direction by City Council, and recognizing that there are a number of opportunities to review the current policies and procedures related to the City's involvement in liquor licensing, ML&S has developed a review governance model along with a work plan to identify the appropriate role of the City in the liquor licensing process and to make recommendations to improve the enforcement of municipal by-laws.

Governance Model

A Steering Committee comprised of City staff, regulatory authorities and elected officials will direct a collaborative review in concert with industry stakeholders, local communities and the general public.

The Steering Committee will direct the work of a Regulatory Working Group, comprised of provincial and municipal regulatory authorities, which will review current policies, procedures and by-laws to assess the City's role in liquor licensing.

The Steering Committee will also direct a portion of the work completed by a Hospitality Industry Working Group, comprised of restaurant, bar and entertainment industry stakeholders and relevant City staff, to review issues associated with operating restaurants and bars in the city, including but not limited to liquor licensing and alcohol-related matters.

Extensive consultations with members of the public, local residents' associations and Business Improvement Areas, in communities across the city, will inform the reviews and tasks completed by the two Working Groups and the Steering Committee.

Steering Committee

The objectives of the Steering Committee are to direct the review of current programs and processes related to the role of the City of Toronto in the issuance of liquor licences and permits by the AGCO; to develop recommendations to assist restaurants, bars and entertainment establishments with liquor licences to achieve better compliance with City by-laws; and to identify process, policy and/or any necessary by-law/statute amendments.

The Steering Committee will identify and prioritize issues and oversee the development of two Working Groups, with specific deliverables, to respond with recommendations to address the identified issues.

Steering Committee Membership:

- Executive Director, ML&S (Chair)
- Director, Policy and Strategic Support, ML&S
- Chair, Toronto Police Services Board, Community Safety Task Force
- Chair, Licensing and Standards Committee
- Chief Operating Officer, AGCO
- Staff Superintendent, Toronto Police Service

Key Deliverables:

- Strike and provide direction to the Regulatory Working Group and the Hospitality Industry Working Group
- Provide direction and support to City staff in the planning and executing of community consultations
- The work of the Steering Committee will be reported to Licensing and Standards Committee, and/or any other applicable standing committee, as determined by the subject matter of the recommendations/report

Regulatory Working Group

The objectives of the Regulatory Working Group are: to bring together municipal and provincial regulatory authorities to review the City of Toronto's role in the issuance of liquor licences and permits by the AGCO; and to identify policy and/or legislative gaps to ensure community nuisance issues are appropriately addressed.

Regulatory Working Group Membership:

- Director, Policy and Strategic Support, ML&S (Chair and lead – by-law reviews)
- Director, Business Licensing and Regulatory Services, ML&S (lead – procedural reviews)
- Representatives of AGCO
- Representatives of Toronto Police Service
- Representative of Toronto Building (where appropriate)
- Representative of Legal Services
- Other participants as necessary depending on matter under review

Key Deliverables:

- Establish a work plan for the group, including key policy/program issues to be discussed and requisite timelines
- Report to the Steering Committee with the results of the meetings and make recommendations for program, policy and/or legislative amendments
- Participate, where appropriate, in community consultations and incorporate feedback from the consultations in its reporting to the Steering Committee

Tentative Work Plan:

1. Review of Toronto Municipal Code Chapters and regulations governing restaurants, eating establishments and nightclubs and issues associated with their operation.
 - a. Chapter 545, Licensing – Articles relating to restaurants, bars and entertainment establishments
 - b. Review of City definitions (licensing and zoning) related to nightclubs, private clubs, public halls, restaurants
 - c. Review issues associated with bars and restaurants operating as nightclubs
2. Review of Toronto Municipal Code Chapters that address the neighbourhood impacts of establishments with liquor licences, where issues of noise, waste, nuisance, and public safety arise.
 - a. Chapter 591, Noise
 - b. Chapter 548, Littering and Dumping
3. Review the City's process/procedures to deal with problem establishments
4. Review of AGCO/City of Toronto clearance processes
 - a. New liquor licence applications – i.e. scope of the municipal clearance process
 - b. Transfer of liquor licences
 - c. Applications for increased capacity, outside service, etc.
 - d. Requests for change in conditions
5. Special Occasion Permits (SOPs)

Hospitality Industry Working Group

The objective of the Hospitality Industry Working Group is to bring together industry stakeholders and relevant City divisions to identify and discuss issues related to restaurants, bars and entertainment establishments, including but not limited to the process for obtaining liquor licences, other alcohol-related matters and the impacts on the neighbourhoods where they locate. This Working Group will continue the work previously started between various City divisions and the Ontario Restaurant Hotel and Motel Association and formalizes this relationship.

The Hospitality Industry Working Group's discussions and consideration of liquor licensing and alcohol related issues will contribute to the Steering Committee's deliberations and Municipal Licensing and Standards' report to Council on the City's role in the liquor licensing process.

Hospitality Industry Working Group Membership:

- Director, Policy and Strategic Support, ML&S (Chair)
- Director, Business Licensing and Regulatory Services, ML&S
- Representatives of Toronto Public Health
- Representatives of Economic Development and Culture
- Representatives of City Planning
- Representatives of Toronto Building
- Representatives of Legal Services
- Representatives of Toronto Police Service
- Representatives of AGCO
- Representatives of Toronto Association of Business Improvement Areas (TABIA)
- Representatives of Ontario Restaurant Hotel and Motel Association (ORHMA)
- Representatives of nightclub/entertainment establishment industry

Key Deliverables:

- Establish a work plan, including key policy/program issues to be discussed and requisite timelines
- Report to the Steering Committee with the results of the meetings and make recommendations for program, policy and/or legislative amendments as they relate to liquor licensing matters
- Participate, where appropriate, in community consultations and incorporate feedback from the consultations in its reporting to the Steering Committee

Community Consultations

ML&S policy staff, under the direction of the Steering Committee, will engage residents and businesses to aid in identifying and developing strategies to address community and public safety concerns related to restaurants, bars and entertainment establishments with liquor licences.

Issues identified and potential solutions that may require policy, program and/or by-law amendments will be provided to the Regulatory Working Group and the Hospitality Industry Working Group, as appropriate. The respective Working Group will analyze this work and then make recommendations to the Steering Committee.

Consultations will be held in areas of the city with concentrated issues relating to establishments with liquor licences. Consultations will be open to the public and will include stakeholders such as, but not limited to, ratepayer associations, BIAs and neighborhood associations.

Consultations will be held between February and April, 2015 and will provide Councillors an opportunity to participate in consultation occurring in their respective wards. Each community consultation will focus on the key issues identified by the Steering Committee.

Staff will report to Licensing and Standards Committee as required to provide updates and seek direction when necessary.

CONTACT

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SIGNATURE

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