

A Review of the Municipal Licensing and Standards Division's Management of Business Licences - Part Two: Holistic Centres

Date: October 24, 2017

To: Audit Committee

From: Auditor General

Wards: All

SUMMARY

The City of Toronto, through the Municipal Licensing & Standards Division (MLS), is responsible for regulating a myriad of businesses operating within its jurisdiction. The objective of this audit was to assess the effectiveness and efficiency of business licensing and By-law enforcement operations.

Our audit results are contained in three separate reports. This report, Part 2, focuses on MLS's licensing and enforcement activities regarding holistic centres.

As of December 2016, there were 410 licensed holistic centres in the City. We identified 107 licensed holistic centres that had the appearance of offering unauthorized services. Aside from potentially being a violation to the City's licensing and zoning bylaws, holistic centres offering unauthorized services could potentially pose an array of health, safety and community issues, including the risk of human trafficking.

There is also a problem with many City-approved Professional Health Associations (PHAs). The City relies on the accredited PHAs to govern their members (licensed holistic practitioners) to ensure integrity and honesty of their services. We reviewed the top 10 PHAs, by membership, and found a number of them appear to operate on paper only. There is no By-law provision enabling MLS to revoke the approval of a PHA or to de-recognize PHA members even when MLS determines a PHA is not fulfilling the By-law requirements.

We recognize this is a complex, challenging issue to address. Much of the issue stems from the gaps in the existing By-law provisions. To address this, City staff need to undertake a comprehensive review of the existing legal framework and regulatory requirements, and re-assess the merits of relying on approved PHAs to govern licensed holistic practitioners.

RECOMMENDATIONS

The Auditor General recommends that:

1. City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to re-assess the merits and practicality of relying upon Professional Holistic Associations as governing and accreditation bodies for holistic licensees and practitioners.
2. City Council request the Executive Director, Municipal Licensing and Standards, in consultation with the City Solicitor, to conduct a detailed and thorough review of the existing By-laws and legislative framework governing the licensing of body rub parlours and holistic centres, with a view to ensuring the City can exercise effective oversight and enforcement actions to stop licensed holistic centres from offering services outside of the parameters and conditions of the licensing category.

FINANCIAL IMPACT

The implementation of the recommendations in this report will help strengthen the licensing and enforcement efforts to regulate holistic centres. The extent of costs savings is not determinable at this time.

DECISION HISTORY

The Auditor General's 2016 Audit Work Plan included a review of the City's licensing and enforcement operations administered by the Municipal Licensing & Standards Division. The Work Plan report is available at:

<http://www.toronto.ca/legdocs/mmis/2015/au/bgrd/backgroundfile-84582.pdf>

COMMENTS

The City of Toronto, through the Municipal Licensing & Standards Division, is responsible for regulating a myriad of businesses operating within its jurisdiction. Authority to regulate these businesses is inherent in the City of Toronto Act, 2006, and the City of Toronto Municipal Code Chapters 545 and 546.

The purpose of licensing is to ensure public health and safety, consumer protection and nuisance control.

Our audit identified a number of issues in the City's licensing bylaw and enforcement regime relating to holistic centres. These issues undermine the City's ability to effectively regulate holistic centers to ensure they are not offering services outside the parameter of their licence.

As of December 2016, there were 410 licensed holistic centres in the City.

Through a simple internet search and matching the information with MLS's licensing database, we identified 107 licensed holistic centres that had the appearance of offering unauthorized services such as erotic massages and other services.

If unauthorized services are provided in a business licensed for holistic services, this could raise health and safety risks to the public and to the staff of the holistic centres because they are not subject to the same rigorous standards as legal body-rub parlours.

In 2015 and 2016, 37 out of the 107 centres were charged by MLS, for a total of 117 charges for various By-law violations, including locking the entry door to the centre without posting a notice, remaining open after hours, and permitting unlicensed practitioners. One of the 107 holistic centres was charged with operating as "body-rub parlour – no licence" over the past two years.

There are many legitimate licensed holistic centres and practitioners. However, for those providing unauthorized services, aside from potentially being a violation to the City's licensing and zoning bylaws, these centres could potentially pose an array of health, safety and community issues, including the risk of human trafficking.

A key City requirement for becoming a licensed holistic practitioner is to be a member of a not-for-profit Professional Holistic Association (PHA). There are 37 in the City, approved by City Council based on staff recommendations. Most PHAs charge their members an initial and annual membership fees.

We conducted site visits of the top 10 PHAs, by membership, and noted that many of them appear to only exist on paper. Many have all the required documentation in their applications, but they have questionable addresses such as residential addresses, one located in an abandoned building, another at a cottage, or a P.O. Box. Despite this, they collect membership fees.

The By-law does not provide MLS with the necessary tools to regulate PHAs. The By-law focuses on document requirements during the initial application, but contains no provision to allow MLS to conduct inspections of PHAs.

Even when MLS determines a PHA is not fulfilling the By-law requirements, there is no By-law provision enabling MLS to revoke the approval of a PHA or to de-recognize PHA members.

We recognize this is a complex, challenging issue to address. Much of the issue stems from the gaps in the existing By-law provisions. To address this, City staff need to undertake a comprehensive review of the existing legal framework and regulatory requirements, and re-assess the merits of relying on approved PHAs to govern the holistic practitioners.

The audit report, entitled "A Review of Municipal Licensing and Standards Division's Management of Business Licences - Part Two: Licensed Holistic Centres" is attached as Attachment 1. Management responses to recommendations contained in the audit report are also included in the same attachment.

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SIGNATURE

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Auditor General

ATTACHMENTS

Attachment 1: A Review of the Municipal Licensing and Standards Division's Management of Business Licences - Part Two: Holistic Centres