

City Council

Notice of Motion

MM35.2	ACTION			Ward:All
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**Strengthening Public Safety Standards for Liquor Licence Applications
- by Councillor Giorgio Mammoliti, seconded by Councillor Cesar
Palacio**

** City Council on November 7, 8 and 9, 2017 waived referral of this Motion. City Council subsequently deferred this Motion to the December 5, 6 and 7, 2017 meeting.
* This Motion is before Council for debate.*

Recommendations

Councillor Giorgio Mammoliti, seconded by Councillor Cesar Palacio, recommends that:

1. City Council direct that a copy of Councillor Giorgio Mammoliti's letter, addressed to the Chief Executive Officer and Registrar of the Alcohol and Gaming Commission of Ontario regarding Liquor Licence Application 27744, be distributed to the attention of all Councillors and the Mayor.
2. City Council request the Executive Director, Municipal Licensing and Standards to report to the meeting of the Licensing and Standards Committee on January 22, 2018, in which the Executive Director, Municipal Licensing and Standards and other appropriate City staff will incorporate the structure of said letter as a formal step in an updated and streamlined licensing system for the City of Toronto, with respect to adding and deleting conditions to any liquor licence issued for an establishment, in consultation with the Ward Councillor.
3. City Council request the City Solicitor and other appropriate City staff to work collaboratively with the Ministry of the Attorney General, the Alcohol and Gaming Commission of Ontario, and the Registrar to reform the liquor licence application review process, and establish the mandatory input of the Ward Councillor in adding and deleting conditions, should City Council decide that a liquor licence application is not in the public interest having regard to the needs and wishes of the residents and the Ward Councillor.

Summary

It has been widely reported that there are nightclubs masquerading as restaurants, cafes, lounges and similar establishments. It was reported as of March 2017, that the Municipal Licensing and Standards Division had laid 158 charges against establishments using a restaurant licence to operate as a nightclub since 2015.

In the March 28 and 29, 2017 sitting of City Council, MM27.53 was adopted whereby City Council directed the City Clerk to advise the Registrar of the Alcohol and Gaming Commission of Ontario that a liquor licence application for a proposed establishment in Ward 7 was not in the public interest having regard to the needs and wishes of the residents, and that the Registrar would issue a Proposal to Review or Refuse the liquor licence. City Council also authorized the City Solicitor to attend all proceedings before the Alcohol and Gaming Commission of Ontario or the Licence Appeal Tribunal in the matter and directed the City Solicitor to take all necessary actions so as to give effect to the Motion, in consultation with the Ward Councillor.

The Premises identified in MM27.53 was licenced for an indoor capacity of 59 patrons, and sought a liquor licence for a capacity of 184 patrons indoors. Having spoken with the proprietors, Councillor Giorgio Mammoliti was concerned that the venue would in essence operate as a nightclub. As local residents and businesses expressed serious and legitimate concerns about illicit behaviour and public intoxication in the area, it was the opinion of Councillor Mammoliti – and reaffirmed by the City Council resolution – that the application would be opposed. The application for the liquor licence was identified as not being in the public interest unless certain conditions addressing the concerns of the community were attached to the licence.

The Alcohol and Gaming Commission of Ontario issued a Notice of Proposal to review the application and a public interest hearing was scheduled at the Licence Appeal Tribunal. Prior to the hearing, a mediated meeting was held by Councillor Mammoliti with the proprietors of the Premises and the City Solicitor.

Following the meeting, on September 28, 2017, Councillor Mammoliti issued a letter to the Chief Executive Officer and Registrar of the Alcohol and Gaming Commission of Ontario. The letter outlined that the City Solicitor was negotiating a consent agreement at the time, outlining conditions that the City wanted attached. While the conditions would attempt to help assuage the concerns of the surrounding community, it was conceded that the conditions would likely face resistance from the Alcohol and Gaming Commission of Ontario, even if consented to by the applicants. The letter outlined the reasons for the objection, and concluded with the following:

"If something adverse should occur at the Premises that is to the detriment of the patrons and the surrounding community, I will ask the Commission for an explanation in light of the City's formal objection and my submitted communication.

If the liquor licence is ultimately granted for the establishment (understanding that a liquor licence is an entitlement rather than a privilege under the Liquor Licence Act), I am formally advising all relevant parties that the venue will be problematic from a public safety perspective."

On October 12, 2017, the City Solicitor advised Councillor Mammoliti that as part of the Alcohol and Gaming Commission of Ontario's Risk-Based Licencing regime, a Safety and Security Plan would need to be filed by the applicant, and the conditions outlined by Councillor Mammoliti would be required in the plan. The plan would need to be followed as a condition of the licence. The City Solicitor indicated that such a response from the Alcohol and Gaming Commission of Ontario was a good result as the City has rarely been able to successfully have

the Alcohol and Gaming Commission of Ontario trigger such a plan based on the City's request. Furthermore, the City Solicitor stated that Councillor Mammoliti's letter to the Registrar initiated the requirement.

Therefore, the City Solicitor removed the objection to the liquor licence based on the consent agreement. The Notice of Proposal to Review and the hearing were subsequently cancelled. The agreement also contained an admission that the facility was not currently operating as a nightclub, which eliminated any future legal non-conforming use claim.

As the Safety and Security Plan and consent agreement achieved important objectives for the City, the correspondence to the Registrar of the Alcohol and Gaming Commission of Ontario must be reviewed by the appropriate staff and codified into the development of future policies. As the City's licencing system is currently being reviewed, it is important that such initiatives from a Councillor should be shared as good news and used to strengthen the City's position in reviewing liquor licence applications.

This matter is deemed urgent as the Municipal Licensing and Standards Division is seeking to complete the review of the City's licensing system, and efforts to strengthen public safety of the City's residents must not be delayed.

Background Information (City Council)

Member Motion MM35.2

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