

City Council**Motion without Notice**

MM9.33	ACTION			Ward: 14
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11 Polson Street - Powerhouse Corporation currently operating as Rebel Nightclub/Cabana Pool Bar - Liquor Licence 804501 - by Councillor Paula Fletcher, seconded by Councillor Joe Cressy

** 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 has been deemed urgent by the Chair.*

Recommendations

Councillor Paula Fletcher, seconded by Councillor Joe Cressy, recommends that:

1. City Council direct the City Solicitor to determine from the Registrar of Alcohol, Cannabis and Racing if the conditions attached to the liquor licence for Maya Corp. at 11 Polson Street are being enforced by the Alcohol and Gaming Commission of Ontario, and if any disciplinary action has been brought forward to Maya Corp. for violations of section 46 of Regulation 719, or for a breach of the conditions attached to the liquor licence.
2. City Council direct the City Solicitor to report on the response of the Registrar of Alcohol, Cannabis and Gaming directly to the October 2 and 3, 2019 meeting of City Council.

Summary

There is a long history of disturbing noise from the licenced premises at 11 Polson Street (the "Premises") on the residents of Ward's and Algonquin Islands (the "Toronto Islands"):

- From 1996 to 2006, the Premises was occupied by Docks on Cherry (the "Docks"). The Docks contained an indoor licenced area for approximately 3000 patrons, and an outdoor licenced area for approximately 7000 patrons.
- On July 24, 2006, following a 26-day hearing held at the Alcohol and Gaming Commission of Ontario, the liquor licence for the Premises was revoked. The Alcohol and Gaming Commission of Ontario determined that it was not in the public interest having regards to the needs and wishes of the residents for the Docks to retain its liquor licence. The Alcohol and Gaming Commission of Ontario based their decision primarily on the evidence of several residents of the Toronto Islands regarding repeated noise impacts from the Docks on their daily lives. The noise originated from both indoor and outdoor music events at the Premises that included concerts and festival events.
- On October 25, 2007, Polson Entertainment Inc. applied for a new liquor licence at the

Premises. The City and the Toronto Island Noise Committee objected to the application. In advance of a hearing at the Alcohol and Gaming Commission of Ontario, Polson Pier, the Toronto Island Noise Committee and the City reached a settlement on conditions that were placed on the licence.

There were minimal noise impacts between 2007 and 2013.

The licence was then transferred to Maya Corp., and starting in late summer 2013 noise impacts from the licenced outdoor area, now named the Cabana Pool Bar, have been felt by the Toronto Island residents.

In May 2015, Powerhouse Corporation (Powerhouse), a corporation 75 percent owned by Maya Corp., applied for a brand new liquor licence for the Premises even though the Premises continued to operate under the Maya Corp. licence. The City, the Toronto Island Noise Committee and the York Quay Neighbourhood Association objected to the application and a 17-day hearing occurred throughout 2017 at the Licence Appeal Tribunal. The Licence Appeal Tribunal directed the then Registrar of Alcohol, Gaming and Racing to issue the new licence, but with an imposed condition that no amplified sound be permitted on the outdoor licenced area. In the decision, the three-member panel concluded that noise from the Cabana Pool Bar cannot be contained so that it would not disturb the Toronto Island residents. The Licence Appeal Tribunal decision has been appealed to Divisional Court.

Currently, the Premises continues to operate under the Maya Corp. liquor licence that permits amplified sound on the outdoor licenced area between 11:00 a.m. and 11:00 p.m. daily but prohibits outdoor events and any emission of sound from the outdoor licenced area from being audible on the Toronto Islands.

Toronto Island residents continue to be disturbed by noise from the Cabana Pool Bar, and have submitted nine packages of noise logs from the Toronto Island Noise Committee to the Alcohol and Gaming Commissioner of Ontario between July 6, 2014, and June 3, 2018. As well, there have been two convictions under the City's Noise By-law, and an additional charge pending. The evidence provided to the Alcohol and Gaming Commissioner of Ontario appears to demonstrate a violation of conditions attached to the licence, and section 46 of Regulation 719, that prohibits noise from a licenced outdoor area "that arises directly or indirectly from entertainment on the premises or from the sale and service of liquor to disturb persons who reside near the premises".

Yet, it appears that no disciplinary action has ever been brought forward for this liquor licence by the Alcohol and Gaming Commissioner of Ontario.

To determine if any disciplinary action has been brought forward by the Alcohol and Gaming Commission of Ontario and to determine if the Alcohol and Gaming Commission of Ontario is enforcing the conditions attached to the Maya Corp. liquor licence, City Council should direct the City Solicitor to write to the Registrar of Alcohol, Cannabis and Racing, and to report on the Registrar's response to the October 2 and 3, 2019 meeting of City Council.

Urgent consideration is being requested as residents of the Toronto Islands continue to be disturbed by noise from the Cabana Pool Bar.

Background Information (City Council)

Member Motion MM9.33