

City Council

Notice of Motion

MM3.9	ACTION			Ward: 14
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11 Polson Street - Maya Corp Application to Remove Conditions from their Liquor Licence - by Councillor Paula Fletcher, seconded by Councillor Alejandra Bravo

** Notice of this Motion has been given.*

** 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 Paula Fletcher, seconded by Councillor Alejandra Bravo, recommends that:

1. City Council direct the City Solicitor to retain party status in the appeal of the Alcohol and Gaming Commission of Ontario Notice of Proposal to refuse the application to remove or amend conditions attached to the liquor licence of Maya Corp, for the premises at 11 Polson Street.
2. City Council direct the City Solicitor to support the Notice of Proposal to refuse the application to remove or amend the conditions attached to the licence and direct the City Solicitor to determine which conditions currently attached to the licence can be amended or removed, in consultation with the Ward Councillor.

Summary

In May 2015, Powerhouse Corporation (Powerhouse) submitted an application to the Alcohol and Gaming Commission of Ontario for a new liquor licence at 11 Polson Street, while continuing to operate under an existing liquor licence for the property issued to a company called Maya Corporation (Maya). The City, the Toronto Island Noise Committee and the York Quay Residents' Association objected to the Powerhouse application, and following a 17 day hearing at the Licence Appeal Tribunal throughout 2017, a new liquor licence was approved by the Licence Appeal Tribunal that contained 9 conditions attached to it. One condition prohibits any amplified sound on, or directed to the outdoor licenced area, at any time. Powerhouse appealed the decision to the Divisional Court in order to have the outdoor noise condition removed from the licence. The appeal was denied and affirmed by the Court of the Appeal.

The Powerhouse liquor licence was never issued by the Alcohol and Gaming Commission of Ontario as Powerhouse has continued to operate the Rebel Nightclub and the Cabana Pool Bar at 11 Polson Street under the Maya liquor licence that permits amplified outdoor sound between 11:00 am and 11:00 pm. Residents of the Toronto Islands and Ward 14 continue to be disturbed by noise from outdoor events at the Cabana Pool Bar.

The Alcohol and Gaming Commission of Ontario recently issued a Notice of Proposal to add the 9 conditions imposed on the Powerhouse liquor licence to the Maya licence, and to review the current conditions attached to this licence. On May 24, 2022, Maya appealed the Notice of Proposal to the Licence Appeal Tribunal. At its meeting on July 19, 20, 21 and 22, 2022, City Council adopted the Recommendations in Item MM47.4 directing the City Solicitor to bring forward a Motion to the Licence Appeal Tribunal to obtain party status in the appeal of the Alcohol and Gaming Commission of Ontario Notice of Proposal to add new conditions to the Maya liquor licence. The City was granted party status and an 18 day hearing has been scheduled commencing on September 20, 2023.

On October 11, 2022 Maya submitted an application to the Licence Appeal Tribunal to remove or amend several conditions attached to their liquor licence. A Case Conference was held at the Licence Appeal Tribunal on November 15, 2022 and the Licence Appeal Tribunal directed the Alcohol and Gaming Commission of Ontario to issue an Notice of Proposal to refuse this application. At the Case Conference the City and Toronto Island Noise Committee were granted party status on this matter. The Alcohol and Gaming Commission of Ontario issued the Notice of Proposal to refuse the application to remove conditions on December 15, 2022, and the Notice of Proposal was appealed to the Licence Appeal Tribunal by Maya on December 28, 2022. It is expected that the appeal of the removal of conditions Notice of Proposal will be heard at the same time as the appeal of the Alcohol and Gaming Commission of Ontario's Notice of Proposal to add conditions to the liquor licence. A further Case Conference was scheduled at the Licence Appeal Tribunal on January 26, 2023, but it was canceled. Another date for a Case Conference will be scheduled over the next few weeks.

Without the direction from Council to retroactively confirm its direction to the City Solicitor to obtain party status and object to the appeal of the Notice of Proposal to remove conditions from the licence, the City would have to withdraw its party status to this appeal.

Urgent consideration is being requested as if Council does not direct the City solicitor to retain its party status the City must withdraw from the appeal the Notice of Proposal to remove conditions at its earliest opportunity.

Background Information (City Council)

Member Motion MM3.9