



Corporate NO: R039

Report COUNCIL DATE: February 28, 2000_

REGULAR

TO: Mayor & Council **DATE: February 16, 2000**

FROM: City Solicitor **FILE: 0023-13680**

SUBJECT: Amendments to the Business License By-law

RECOMMENDATION

1. Approve the attached amendments to Business License By-law, 1999, No. 13680, as amended (the "Business License By-law") to make the Business License By-law consistent with recent amendments to the *Municipal Act*, R.S.B.C. 1996, c. 323 (the "*Municipal Act*"), as amended.
2. Approve the attached amendments to the Business License By-law which introduce a new category of gaming casino, provided that it is covered by a Host Financial Assistance Agreement between the Province and the City, which agreement provides for compensation to the City and excludes slot or electronic gaming machines.

INTENT

It is the intent of this report to provide Council with revisions to the Business License By-law to make it consistent with the recent amendments to the *Municipal Act*. The Business License By-law is also proposed to be amended to allow a casino business use category that is conducted and managed by the Province and consists of table games only.

BACKGROUND

New Casino Business License Category

The proposed amendments to the Business License By-law introduce a new "Casino" business category. The existing casino operated by the Great Canadian Casino Company (the "Casino") at 13538 - 73 Avenue held a business license as a "charitable casino management company". The Casino no longer fits this category because the Province's operational business model and financial relationship with the Casino has completely changed since the last business license was granted to the Casino. Until 1998, casinos with table games had volunteers from various charities working on a rotating basis. The charities would share in the house win on a rotating basis. This arrangement fell under the charitable gaming provisions of s. 207(1)(b) of the *Criminal*

Code.

After the Province announced expanding gaming activity, and following court decisions involving the City of Surrey against the Province and another decision involving an action by Nanaimo charities against the Province, the Province decided to change its gaming model for these charitable type casinos, and end the role the charities once enjoyed. Because the Province was taking control of gaming revenues from the charities the *Criminal Code* charitable exceptions could no longer be safely relied upon.

The Province through an agreement with the Casino now considers that it has "management and control" of the Casino under the s. 207(1)(a) of the *Criminal Code* exception allowing a Province to conduct and manage lotteries, including slot machines, thereby shutting the charities out of their former direct participation. The Province has made the private sector companies "service providers" although in reality the private sector business ownership of the Surrey Casino and share of the gambling win has not changed.

Under this latest gaming regime the Province has offered municipalities Host Financial Assistance Agreements under which municipalities receive approximately 10% of the net house win. City Council adopted a resolution on January 17, 2000 authorizing the City to enter into a Host Financial Assistance Agreement with amendments to ensure the Casino complies with City by-laws. A business license fee of \$20,000 per annum is proposed.

General Business License By-law Amendments

Amendments to the Business License By-law include the following:

1. Delegation of Council's power to reject, suspend or revoke a business license to Senior By-law Enforcement staff whose decision in each case may be appealed to City Council for reconsideration.
2. Allowing Council to refuse, suspend or revoke a business license on its own motion, subject to a right of a hearing by the applicant before Council.
3. Setting out the reasons for refusing, suspending or revoking a business license.

CONCLUSIONS

The new casino business license category is designed to cover the revised business operational model employed by the Casino facility. The City's current Business License By-law had allowed the Casino to operate a business of "charitable casino management company". The Province's gaming model as evidenced by the Host Financial Assistance Agreement between the Province and the City no longer follows the previous gaming model which included the direct participation and remuneration of charities (thereby following the s. 207(1)(b) exception to the *Criminal Code's* gaming prohibition).

The new "Casino" business license category is designed to facilitate the Province's revised gaming model under which it has "management and control" of gaming, which then allows the Province to argue that a casino falls under the s. 207(1)(a) *Criminal Code* exception that allows gaming to be "conducted and managed" by a Province.

Section 658(1)(a) of the *Municipal Act* provides that City Council may set out the conditions that must be met before a business license is granted, the nature of the conditions and who may impose them. A key condition for the issuance of a casino business license in the attached by-law is the existence of an executed Host

Financial Assistance Agreement between the City and the Province. This is a reasonable requirement for a casino license because the Agreement sets out the business operating scheme for the casino. It also provides for compensation from the casino to the City through the Province to provide impact fees to help defray the policing and social costs that gaming imposes on local government. To date the Province has not returned this Agreement to the City fully executed nor has any compensation been paid to the City by the Province.

The general amendments to the Business License By-law provide the City with regulatory control over the conduct of businesses within its boundaries consistent with the recent amendments to the *Municipal Act*.

CRAIG MacFARLANE

City Solicitor

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