



November 10, 2009

Job # 695549-028
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Peter Smailes
Treasurer
University of British Columbia
6066 Thunderbird Blvd.
Vancouver BC V6T 1W5

**Re: Thunderbird Winter Sports Centre (Liquor Primary #110162)
6066 Thunderbird Blvd.
Application for structural change and hours change**

Dear Mr. Smailes,

This is in response to your application for a structural change and change to hours of liquor service for liquor primary (LP) licence #110162.

The proposed structural change would expand the currently licensed lounge and patio area to include two arenas and a new patio area, with a total occupant load of approximately 8,772 persons.

The licensee has asked that the liquor primary be licensed as a stadium, to be used during sporting events, concerts, trade shows, as well as a venue for Olympic/Paralympic events.

The current operating hours are 11:00 AM to 1:00 AM Monday to Saturday, and 11:00 AM to midnight on Sunday. The licensee has applied to change the hours to 9:00 AM to 2:00 AM Monday to Saturday, and 11:00 AM to midnight on Sunday.

Due to the nature of the applications, a local government resolution was required. Metro Vancouver has submitted their resolution dated August 5, 2009.

The purpose of this letter is to inform you of my decision in regards to the proposed licence changes, the rationale for my decision, and the next step in the licensing process.

Ministry of Housing and
Social Development

Liquor Control and
Licensing Branch

Mailing Address:
PO Box 9292 Stn Prov Govt
Victoria BC V8W 9J8
Telephone: (250) 387-1254
Facsimile: (250) 387-9184

Location:
Second Floor, 1019 Wharf Street
Victoria BC

<http://www.hsd.gov.bc.ca/lclb/>

Analysis and Decision

In assessing the applications, I have reviewed the application packages, local government's resolution, the results of the public input process, and comments from the liquor inspector and local enforcement authorities.

Local government resolution

I have reviewed the resolution passed by Metro Vancouver's Board of Directors (the Board) at their meeting on July 31, 2009. The resolution meets all necessary criteria set out in Section 53 of the Liquor Control and Licensing Regulation.

The Board recommended that the applications be approved with the following terms:

- hours of operation of 9:00 AM to 1:00 AM Monday to Saturday, with no change to proposed hours on Sunday
- patio hours of 9:00 AM to 10:00 PM daily, with no use permitted after 10:00.
- unlicensed seats in Arena A increase from the proposed 150 seats to approximately 300 seats
- licence changes be approved on a probationary basis until the RCMP is satisfied that the venue is being managed according to policies.
- UBC amend its event policy and guidelines to address safety and control, especially management practices to address noise; UBC work with the RCMP to assess management practices in relation to the revised policies; and the Vancouver Police report on their activities at the venue during the probationary period.

The Board's recommendations are discussed further below.

Public Comments

As part of the local government's public input process, the licensee posted two site signs on May 2, 2009. A newspaper advertisement was placed in the Vancouver Courier on May 22 and May 27, 2009. Notice of a public meeting was mailed to more than 1,000 households in the areas adjacent to the venue in the week prior to the meeting. The meeting notice was also posted on the electronic newsletter of the University Neighbourhood Association, and provided to the University Endowment Lands and Alma Mater Society for distribution.

Approximately 25 people attended the public meeting on June 2, 2009, including students, faculty, staff and nearby residents. The Metro Vancouver staff report notes that several people in attendance expressed concerns about late-night noise along Wesbrook Boulevard, and felt extending hours would exacerbate the situation. There was also concern about the size and location of non-alcohol seats. I understand that these concerns were raised during the open forum discussion at the meeting. Of the eight people who actually presented at the meeting, seven supported the application. One speaker opposed, raising concerns about increased noise, safety and unruliness in

the neighbourhood, and that some neighbours had moved out because of late-night noise and disturbance.

Nine written submissions in support of the applications were received.

The University Neighbourhood Association was cautiously supportive, but had concerns about hours of operation for both the venue and the patios, and the large consumption area.

This structural change application is unusual as it also involves a change in the primary focus of the existing establishment. The current licence consists of a lounge, patio and ancillary areas used in conjunction with sporting events at the arena, as would be expected given the name "UBC Thunderbird Winter Sports Centre". As part of the structural change application, the licensee has asked that the liquor primary be licensed as a stadium, to be used for large sporting events, concerts, trade shows and Olympic/Paralympic events.

If the licensee had applied for a new liquor primary for the stadium seating, there would have been opportunity for local government and the public to more fully consider the focus and intent of the establishment, and how it might impact the community.

However, since the application was submitted as a structural change, it is possible that public comments did not consider that the primary focus of the venue was changing from a recreational lounge facility to that of a stadium with both sporting and non-sporting events.

It is within the authority of local government to manage the public input process, and I am satisfied the process used meets all the requirements. I also appreciate that the proposed changes to the licence are particularly complex, and it is not feasible to include all application details in notices, signs and advertisements. However, I did want to note the following:

- The notice, advertisements and site signs all referenced the proposed expansion of the licensed area into the seating area of two arenas and the addition of a patio, however was no reference to the proposed total capacity.
- Although the site sign and newspaper advertisements referenced extension of hours of liquor service, only the notice of the meeting specified the proposed hours.
- The public input process did not reference that liquor service is proposed during concerts, trade shows and other events in addition to sporting events.

I am concerned that there was not adequate notice of the change in focus of this establishment or the increase in capacity. It is possible that more concerns might have been raised if the application had been considered as a new liquor primary licence, or if the public had been provided more details about proposed person capacity, hours, the nature of events, and the shift in focus to a stadium licence.

Comments from the Liquor Inspector and enforcement authorities

The Liquor Inspector, RCMP and police have all raised concerns about the proposed changes and about event management practices at the venue. I note the following:

- In Spring 2009, the Liquor Control and Licensing Branch (LCLB) approved temporary relocations of the licence for concerts. At the April 24th concert, the Liquor Inspector reported contraventions for overcrowding, liquor removed from the establishment, an unauthorized third party operator, and contravening licence terms and conditions. As a result, LCLB withdrew its approval for five subsequent events.
- At an unlicensed concert on June 10th, the liquor inspector reported an assault, illicit liquor and intoxicated patrons.
- Due to the above concerns, LCLB denied a policy exemption application for Special Occasion Licences (SOLs) for various concerts, although approval was granted for SOLs for sporting events.
- RCMP Sergeant Kevin Kenna (UBC Detachment Commander) provided a written submission dated June 23, 2009 to Metro Vancouver. The submission notes that despite very clear direction from authorities, the establishment's management "allowed things to go off the rails by flaunting the liquor and narcotics". He also suggests that "profit is the main objective rather than ensuring that community interests are taken into consideration", and that proper security is not being maintained to detect and deter illegal consumption of alcohol and narcotics.
- Sergeant Kenna does not support the applications without UBC Thunderbird having an operational plan in place to deal with alcohol and other issues. He also suggests that the majority of seating should be alcohol-free.
- The liquor inspector noted similar concerns about event management at concerts.
- Vancouver Police Superintendent Andy Hobbs provided a written submission to LCLB dated July 30, 2009. His submission expressed concerns about how the proposed licence changes would impact resourcing, and asked that consideration be given to ways to mitigate the impact on both the RCMP and police.
- The resolution from Metro Vancouver recommended that event management practices be reviewed, and that the licence changes be approved on a probationary basis until the RCMP is satisfied with management practices.

It is very unusual for an establishment to have such serious and repeated issues with liquor at events over a very short time frame. It is also very rare for local government and enforcement authorities to have such concerns with liquor management. I take these issues seriously and this is reflected in my licensing decision described in this letter.

In regards to Metro Vancouver's recommendations, LCLB staff have advised the local government that we are not able to issue a temporary licence on a probationary basis. However, I am prepared to take other measures to address concerns raised by the local government and others.

I support the Board's recommendation that event management practices be amended. The licensee will be required to work with the liquor inspector and enforcement authorities to develop and implement management plans that are satisfactory to the liquor inspector.

Events proposed for licensing

The licensee has asked that the liquor primary be licensed as a stadium to be used for sporting events, concerts, trade shows and Olympic/Paralympic events.

With an event-driven licence, I must consider the nature of events proposed for liquor service. In this situation, I must consider the very serious concerns raised in regards to liquor service at concerts.

Based on these considerations, I am not prepared to allow liquor service at concerts at this time. In addition, I will not approve any application to temporarily suspend the licence (de-licence) to allow for a special occasion licence (SOL) to be issued for a concert.

When the licensee has successfully addressed concerns regarding event management, they may apply for a change to the terms and conditions of the licence to allow for liquor service at concerts. I would not be prepared to consider an application until I am confident that the licensee has developed improved event management practices, and that those practices have proven to be effective. When these conditions are met, I would be prepared to accept an application for a change to the terms and conditions of the licence. I will not accept an application prior to May 2010. Similarly, prior to May 2010, I will not consider any delicensing application for the purposes of a SOL to hold a concert, however I am prepared to allow delicensing for an Olympic/Paralympic licence.

In terms of proposed trade shows at the establishment, it is important to note that liquor service at an event-driven licence is restricted to live events only. An event is a "live event" only if the primary presentation occurs through individuals who are physically presenting or performing the event, such as a sporting event or public rally led by a person on stage. Expositions with themes such as home and garden, boats, or recreational vehicles do not qualify as live events since the primary purpose of the event is to display objects which people look at or try out. Liquor Licensing Policy 7.7 provides more information about live events.

A tasting held at a trade show may be eligible for a Special Occasion Licence (SOL) if an identifiable section of the trade show or exposition is related to the hospitality (food and beverage) industry.

Proposed hours

In regards to the application for a permanent change to hours of liquor service for the interior and patio areas, I have considered the following:

- The establishment is immediately adjacent to a residential neighbourhood. Public input suggests that the main concern of residents is the potential for noise, particularly late-night noise as patrons leave the venue, and noise from the patios.
- Metro Vancouver recommended that hours of operation be changed to 9:00 AM to 1:00 AM Monday to Saturday, with no change to proposed hours on Sunday. The Board also recommended a 10:00 PM closing time for the patio. Sergeant Kenna's recommendations regarding hours were consistent with the Board's.
- Although the original application did not propose patio hours that were different from the interior area, the applicant has subsequently requested that liquor service on the patio end at 10:00 PM.
- Licensed hours at other stadiums such as Prospera (Kelowna), Save on Foods Memorial (Victoria) and GM Place (Vancouver) end at either 1:00 AM or midnight on Monday to Saturday. Some stadium licences also require that liquor sales end prior to the scheduled event end time.

Given residents' concerns about noise, I support the Board's recommendation regarding hours. These hours are also more consistent with other stadiums.

Liquor service will only be permitted in conjunction with a live event at the arena. Liquor service may begin one hour prior to the event. I will also impose a term and condition requiring that liquor sales must end a half hour before the scheduled event end time.

Proposed licensed areas

The proposed structural expansion would increase the person capacity from 385 persons to a total of approximately 8,772 persons, consisting of:

- Arena A – total proposed capacity of 7,681 (approximately 5,000 for sporting events and more than 7,000 for special events when the floor is licensed). This includes stadium seats, arena floor, concourse areas, and a patio.
- Arena B – total proposed capacity of 1,191, including stadium seats and the arena floor.

I note the following in regards to areas proposed for licensing:

- New patio proposed for Arena A – The new patio on level one has a capacity of approximately 294 persons, and is proposed for use during intermissions and pre-event activities. Liquor service at pre-event activities on the patio may begin no earlier than one hour prior to the event at that stadium.

- Arena floors -- The licensee has requested that the arena floors be licensed. I have no objection to the floors being licensed for events that meet the policy criteria for live events. As discussed, liquor service will not be permitted at concerts.
- Adjoining areas between the arenas -- I am not prepared to licence the adjoining areas between the two arenas as I do not support patrons carrying liquor from one arena to another.
- Existing licensed lounge and patio -- The licensee has asked that the existing licensed lounge (now dormant) not be included in the licensed area as renovations are planned for this area. A structural change application will be required when the licensee wants to make changes to this area. The existing patio is being relocated to an area on level two, adjacent to the lounge. This patio will not be licensed at this time. If it is licensed in the future, it will be subject to the same terms and conditions as the patio in Arena A.
- Unlicensed tiered seating -- Regulations require that an area of a stadium's tiered seating be designated where no liquor is permitted. This must consist of a reasonable choice of seats within the range of ticket prices offered, and be consistent in numbers to the level of demand for seats of this kind in the stadium. The licensee has identified unlicensed seating in both arenas. For Arena A, Metro Vancouver recommended that unlicensed seats be expanded from the proposed 150 seats to approximately 300 seats. I accept the Board's recommendation.
- Hospitality suites -- Although the original application references hospitality suites, the licensee has confirmed that the stadiums do not have any suites.

Other considerations:

The lounge and patio currently have permissions under section 27(b) of the Act. Only recreation centres and liquor primary clubs are eligible for these permissions. As the venue will be licensed as a stadium, these provisions will be removed from the licence.

The following terms and conditions apply to all stadiums, and will be reflected on the licence:

- Liquor service is restricted to beer, wine, cider and coolers
- The organizer or promoter sponsoring the event must give their written consent for the licensee to sell liquor during the event.
- Sale or service of spirits is prohibited
- Beverages must be served in plastic, paper or other disposable containers.

The application package includes a request for an off-premise sales endorsement on the licence. This licence is not eligible for an off-sales endorsement as per section 47(1) of the Liquor Control and Licensing Regulation.

Conclusion:

This has been a particularly complex decision given the scope of change, the serious concerns raised by the liquor inspector and RCMP, and the siting of the licence in a residential area.

I am listing here the key decisions described above, and the terms and conditions that will apply to the licence:

- All licensed areas are event-driven; liquor service is only permitted in conjunction with a live event taking place in the arena.
- Liquor service may begin one hour prior to the event, and must end a half hour before the scheduled event end time.
- Hours of liquor service limited to 9:00 AM to 1:00 AM Monday to Saturday, and 11:00 AM to midnight on Sunday
- Patio hours limited to 9:00 AM to 10:00 pm daily. No patrons permitted on the patios after 10:00 PM
- No music or amplified sound permitted on the patios
- Liquor service is not permitted at concerts
- Minors are permitted
- Liquor service is restricted to beer, wine, cider and coolers (no spirits)
- The organizer or promoter sponsoring the event must give their written consent for the licensee to sell liquor during the event
- Prior to May 2010, LCLB will not consider any application to temporarily suspend the licence for an event under a special occasion licence (SOL)
- Prior to May 2010, LCLB will not accept an application for a change to the terms and conditions to allow for liquor service at licensed concerts
- Any application to amend the licence terms and conditions to allow concerts will require public input and a resolution from local government
- The licensee is required to work with the liquor inspector and enforcement authorities to develop and implement improved event management plans
- 27(b) permissions will be removed from the licence

Next Steps:

The next step in the licensing process is to submit details floor plans of the proposed licensed areas including updated occupant load calculations. Once floor plans are received, the application will be eligible for consideration of approval in principle.

If you have questions about any of the information contained in this letter or about the licensing process, please contact Ann Shubrook at 250 356-1251.

Yours truly,



Cheryl Y. Caldwell
Deputy General Manager
Licensing and Local Government Liaison

cc: Lesley Metcalfe, Licensing Analyst
Ann Shubrook, Assistant Manager
Rona Smart, Licensing Supervisor
Kavie Toor (Resident Manager)
David Boote, Metro Vancouver
Liquor Inspector Melanie Mahon
RCMP Sergeant Kevin Kenna
Rich Critchlow and Marcus von Minden, Fire Prevention (F: 604-822-8299)