

ITEM ⁹
MANAGER'S REPORT NO. 73
COUNCIL MEETING Nov. 15/76

Re: LETTER FROM THE FIRST CHRISTIAN REFORMED CHURCH OF NEW WESTMINSTER
WHICH APPEARED ON THE AGENDA FOR THE NOVEMBER 8, 1976 MEETING OF
COUNCIL (ITEM 4g)
OBSERVANCE OF THE LORD'S DAY ACT

Appearing on last week's agenda was a letter from the First Christian Reformed Church of New Westminster regarding the enforcement of laws pertaining to the closure of business operations on Sundays.

The Lord's Day Act governs the operation of businesses on Sunday. Municipalities have no authority to make exceptions to this Federal Act which is administered by the Attorney-General's Office. If the Church wishes to register a complaint against any business that pursues commercial activities on Sunday, it will have to do so in accordance with the procedure that is outlined in the attached letter to our Solicitor from Mr. H. N. Yacowar, Legal Officer in Victoria. Although this letter is dated March 17, 1975, we have been advised by telephone that the procedure as outlined has not been changed and is still to be followed at this time.

By way of further clarification, Section 859 does not require that shops be closed on Sunday. A police or municipal inspector cannot therefore swear an Information for contravention of the Lord's Day Act without the consent of the Attorney-General.

Council on March 1, 1976 supported a submission from the B. C. Retail Furniture and Appliance Dealers to seek enforcement of laws governing closure of business on Sundays, and on that occasion, passed the following motion:

"That we support the brief submitted on Sunday Shop Closing as it relates to bringing forward an amendment to Section 859 of the Municipal Act so as to add a subsection to provide for the closing of shops on Sundays."

The Attorney-General was so advised.

At the Council meeting of April 26, 1976, a similar submission was received from the B. C. Floor Covering Association and the Attorney-General was asked by Council to comment on the question of what action his Department may be proposing on the future enforcement of the provisions of the Lord's Day Act. To date we have not received a reply, and we will now follow-up.

RECOMMENDATION:

1. THAT a copy of this report be sent to the First Reformed Church of New Westminster.

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cc: MANAGER
✓ CHIEF Lic. INSP.
O/C BURNABY R.C.M.P.

L390-2

March 17th, 1975

W.L. Stirling, Esq.,
Municipal Solicitor,
The Corporation of the District of Burnaby,
Municipal Hall,
4949 Canada Way,
Burnaby, British Columbia V5G 1M2

Dear Sir:

RE: LORD'S DAY ACT PROSECUTIONS

This will acknowledge receipt of your letter dated March 3rd, 1975, relating to the Sunday operation of Lumberland.

As you know, the Lord's Day Act provides that the Attorney-General's consent must be obtained before a proprietor can be prosecuted for carrying on business on a Sunday.

As a matter of policy, for a complaint to proceed, the complainant has to be a private individual who is sincerely offended by the carrying on of the particular operation on the Lord's Day. As a matter of policy the complainant cannot be a business competitor of the person or business against which the complaint is being registered nor could the complainant be someone who appears to be complaining in order to advance some personal interest in the overall enforcement of the Act.

By way of information, the following establishments are exempt from prosecution by way of the Attorney-General exercising his discretion:

- (1) Independent grocery stores
- (2) Drug stores, regardless of the fact that they might be selling merchandise other than medicaments.
- (3) Service stations and enterprises providing amenities of a minor nature to the travelling public.

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LICENCE DEPARTMENT

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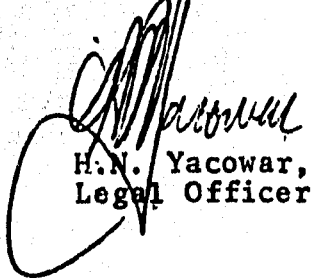
W.L. Stirling, Esq.,
Burnaby, British Columbia V5G 1M2

(4) Eating establishments

When a complaint is received in the Department of an alleged violation, a letter is sent to the offending party informing him of the complaint and warning him that should further violations against the Lord's Day Act occur he, and his business, are liable to prosecution. Should the offending party continue to operate in violation of the warning and the Lord's Day Act, the police are then instructed to obtain evidence for a prosecution and advise the Department. On receipt of the Police report a Consent to Prosecute will go forth from the Attorney-General to Crown Counsel and the information is then sworn and the prosecution proceeds in normal fashion.

If you are aware of such complaints being registered against Lumberland, please advise the complainant to go to the Police or write us directly in Victoria setting out the circumstances of his complaint. It would be necessary for the complainant to act as the Informant in the swearing of the Information.

Yours very truly,


H.N. Yacowar,
Legal Officer

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