

| | |
|----------------------|------------|
| ITEM | 13 |
| MANAGER'S REPORT NO. | 89 |
| COUNCIL MEETING | 1978 12 18 |

Re: LETTER FROM EATON'S WHICH APPEARED ON THE AGENDA FOR THE
1978 DECEMBER 04 MEETING OF COUNCIL (Item 12h)
EATON'S AUTOMOTIVE CENTRE
NORTHEAST CORNER OF WILLINGDON AVENUE AND LOUGHEED HIGHWAY
(Item 26, Report No. 87, 1978 December 11)

RECOMMENDATION:

1. THAT the following resolution which was adopted by the Municipal Council at its meeting of 1978 December 11 be rescinded:

"THAT the Chief Building Inspector and Chief Licence Inspector be instructed to issue the permits or licences that are necessary to meet the requests of the Manager, Eaton's Brentwood Store, as outlined in Item 26, Municipal Manager's Report No. 87, 1978 December 11."

REPORT

When Item 26, Manager's Report No. 87 was considered by the Municipal Council on 1978 December 11, the following motion was adopted:

"THAT the Chief Building Inspector and Chief Licence Inspector be instructed to issue the permits or licences that are necessary to meet the requests of the Manager, Eaton's Brentwood Store, as outlined in Item 26, Municipal Manager's Report No. 87, 1978 December 11."

The motion was adopted specifically on the understanding that the Municipal Manager was to check with the Municipal Solicitor to ascertain if the Municipal Council has the authority to pass such a motion under the circumstances.

The Municipal Solicitor has advised that the Council may not interpret its own bylaws. Section 709(1)(a) of the Municipal Act provides that the Board of Variance shall hear and determine any appeal by a person aggrieved by a decision of any official charged with the enforcement of the Zoning Bylaw insofar as that decision relates to an interpretation of the bylaw or any operation thereof.

In this particular case this is clearly a question of interpretation, and there are obviously differing views. The Board of Variance is the place where these should be heard.

Another alternative solution would be to amend the bylaw to make it abundantly clear as to what is intended, but this process may not prove to be satisfactory to Eaton's, and of course will be quite time consuming. The Board of Variance is scheduled to meet on January 11, and under these circumstances, Mayor Constable has contacted Mr. Horton to advise him to make his appeal directly to the Board of Variance.

It is now necessary to rescind the motion passed by the Municipal Council giving direction to the staff in this connection.