

TO: MUNICIPAL MANAGER 1992 JULY 08

FROM: DIRECTOR PLANNING AND BUILDING

SUBJECT: MUNICIPAL ROLE IN SEEKING PUBLIC INPUT ON LIQUOR LICENCE APPLICATIONS AND THE PUBLIC INPUT PROCESS FOR LICENSED OUTDOOR PATIOS

PURPOSE: To report on the procedures regarding liquor licence applications which require public input as required by Council policy, and to respond to Council's request for a recommendation regarding a public input process for proposed licensed outdoor seating areas.

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RECOMMENDATIONS:

- 1) THAT Council endorse the processing procedure outlined in Appendix I, Section 2.2 of this report for those classes of liquor licence applications which require public opinion to be determined in accordance with Council policy.
- 2) THAT Council approve the public input policy requirement described in Section B.2.2 of this report for applications for licensed outdoor patios.

SUMMARY:

This report addresses two matters, both related to public input on liquor licence applications. Part A addresses the processing procedures for liquor licence applications which require public input as required by Council policy. Part B responds to a specific Council request for a recommendation regarding a public input process for proposed licensed outdoor patios.

REPORT

A. PUBLIC INPUT ON LIQUOR LICENCE APPLICATIONS - PROCESSING PROCEDURES:

In recent years, processing procedures for liquor licence applications and general liquor licensing policies have changed at both the provincial government level and in Burnaby. Since 1990, it has been evident that changes in the two processing procedures created a situation in which Burnaby would have no opportunity to determine public opinion on liquor licence applications for Class "A" Hotel pubs and lounges, Class "C" Cabarets and Class "G" Licensee Retail Stores, as required by Council policy, prior to Council's final consideration of the application.

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In order to overcome this situation, Planning and Building Department and Liquor Control and Licensing Branch staff had further discussions in order to reach a better understanding of potential conflicts between the Provincial and Municipal processing procedures for liquor licence applications and the objectives of both government authorities in processing the applications.

Arising from these discussions, a mutual processing procedure was arrived at which recognizes those types of liquor licence applications on which Council requires public opinion to be determined, but where a public input process is not required by the Province. The processing procedure for these types of applications is outlined in Appendix I.

For convenient reference, staff have prepared a flowchart (attached) summarizing the Processing Procedure for Liquor Licence Applications reflecting the procedure as outlined.

B. PUBLIC INPUT ON LIQUOR LICENCE APPLICATIONS FOR OUTDOOR PATIOS

1.0 BACKGROUND INFORMATION:

1.1 On 1991 June 03, Council received a report from the Planning and Building Department regarding a liquor licence application for an outdoor patio for Delaney's Place Neighbourhood Pub.

Arising out of Council's consideration on this application, Council directed staff to include a public input process for applications for outdoor patio seating.

This report proposes a public input process for such applications in response to Council direction.

1.2 On 1991 October 15, the Director Planning and Building recommended that staff engage the firm Cinnamon Jang Willoughby as the Municipality's Consultant on the Public Opinion Process For Liquor Licence Applications for a two year period. The terms of reference for this engagement stated that while public opinion on liquor licence applications is determined solely through neighbourhood surveys at this time, at some future date, Burnaby might wish the consulting firm to administer and conduct other types of public input processes, such as mail drops or public meetings. Council adopted the recommendation of the Director Planning and Building at that time.

2.0 GENERAL DISCUSSION:

2.1 Applications for seasonal outdoor seating areas are considered to be a relatively minor type of liquor licence proposal, involving established licenced premises where the basic land use has already been approved and usually presenting little potential for additional impact on a broad scope. It is therefore recommended that a public input process requirement be adopted that focuses on inviting response from the immediately adjacent neighbours of the site for which the outdoor seating area is proposed who would potentially be directly affected by the outdoor seating area, either visually or in terms of noise.

Staff have contacted our Consultant, Cinnamon Jang Willoughby, regarding the public input process described below and the consultant has indicated an interest in submitting a proposal to administer this process. Details of the engagement for this process

have not been worked out, however, the procedure is presented as being administered by the Consultant.

2.2 In order to institute a public input policy which is appropriate for the limited scale of such proposals and which focuses on the adjacent neighbours, it is recommended that the following process be adopted as a requirement for public input for applications for outdoor seating:

The public input process would be required to be utilized only if there is residential land use within 70 meters (230 ft.) of the proposed outdoor patio area. This radius is considered sufficient to address the limited potential impacts of a seasonal outdoor patio on those primarily affected by such activity.

2.2.1 Once this Department completes its standard assessment of a liquor licence application, a report is submitted to Council. If the proposal can be supported and there is residential land use within 70 meters of the outdoor patio, the report would recommend that Council advance the liquor licence application to the required public input stage and that consideration of the liquor licence proposal be tabled until after a further report on the public input is received.

2.2.2 If Council advances the application, the applicant would be required to deposit sufficient monies to cover the public notification costs for the public input process.

2.2.3 a) Once the applicant submits the required deposit, the Consultant will arrange for notification letters, with response cards and self-addressed, postage paid return envelopes, to be sent to adjacent owners and occupants within 70 m (230 ft.) of the subject property and the applicant will be required to place a sign on the property advising the public of the liquor licence proposal.

b) Both forms of public notification will inform the public of the proposal and invite interested parties to write to the Consultant by a specific, but reasonable deadline (i.e. 18 days after placing of the sign(s) and release of the letters) to express their views on the proposal. The letters mailed to the owners will include a response card for the residents to check whether they support or oppose the liquor licence application and a space for any comments.

2.2.4 Once the deadline for receipt of public input has passed, the Consultant will provide this Department with a report tabulating the public input and verifying the validity of the results. Staff would then provide Council with a summary report on the input received. The actual written responses would also be available for perusal by members of Council as well, if requested.

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The previously submitted liquor licence report would appear on the same Council agenda as a tabled item. Council could then by motion resolve to give favourable consideration or to not give favourable consideration to the liquor licence proposal. A copy of Council's resolution would then be forwarded to the General Manager, Liquor Control and Licensing Branch.


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2.3 On 1988 September 06, Council received a report regarding a process for Municipal consideration of applications for outdoor patio seating. The report stated that in light of the general nature of restaurants (for which Class "B" liquor licences are issued), which operate primarily as eating establishments, and the number of restaurants in Burnaby, the Planning and Building Department would consider it appropriate and sufficient for applicants for outdoor patio seating for restaurants to continue to be processed at a staff level, through the Preliminary Plan Approval process, through which all pertinent departments such as Environmental Health and Fire provide input. Council adopted the recommendation in this regard.

Unless otherwise directed, staff will continue to process proposals for outdoor patio seating for Class "B" (restaurant) liquor licences through the Preliminary Plan Approval process.

3.0 CONCLUSION:

3.1 Part B of this report provides a response to Council's direction to introduce a public input process for applications for licenced outdoor seating areas, and proposes an approach that focuses on eliciting feedback from the immediate neighbours to the property. It is recommended that public notification be required as described in Section B.2.2 of this report, inviting interested parties to provide their opinion, with a report on the public input to be submitted to Council prior to Council's final consideration of the liquor licence application.


D.G. Stenson, Acting Director
Planning and Building

BW:yg
Attach.
cc: Chief Licence Inspector

APPENDIX I

A. PUBLIC INPUT ON LIQUOR LICENCE APPLICATIONS -
PROCESSING PROCEDURES:

1.0 BACKGROUND INFORMATION:

1.1 On 1990 April 30, Council adopted the procedure to be utilized for obtaining public opinion on liquor licence applications. The procedure requires that neighbourhood surveys be conducted for applications for Class "A" Hotel pubs and lounges, Class "C" Cabarets, Class "D" Neighbourhood Public Houses and all liquor stores, including Class "G" Licensee Retail Stores. A copy of the report outlining the procedure was sent to the General Manager, Liquor Control and Licensing Branch.

1.2 In response to receiving a copy of the above report, the General Manager of the Liquor Control and Licensing Branch wrote regarding the procedure to be utilized in processing liquor licence applications which require public input, stating "if the District of Burnaby wishes to pursue the course of obtaining public input for all liquor licence applications, the process should take place after preliminary site and applicant approval has been granted by the Province."

However, applicants for Class "A" (Hotels, Clubs, Recreational Facilities, etc.), Class "C" (Cabarets), Class "E" (Stadiums and Concert Halls), and Class "G" (Beer and Wine Stores) liquor licences are required to provide a Municipal resolution on the liquor licence application as part of their application to the Liquor Control and Licensing Branch, in accordance with the new Provincial processing procedure. If these two processing procedures were combined, Burnaby would have no opportunity to determine public opinion on liquor licence applications for Class "A" Hotel pubs and lounges, Class "C" Cabarets and Class "G" Licensee Retail Stores, as required by Council policy, prior to Council's final consideration of the application and providing the Branch with the pertinent Municipal resolution.

2.0 GENERAL DISCUSSION:

2.1 Planning and Building Department staff have had further discussions with the Liquor Control and Licensing Branch on the processing procedure resulting in a solution which recognizes those types of liquor licence applications on which Council requires public opinion to be determined, but where a public input process is not required by the Province.

2.2 Under this processing procedure, upon receipt of an application for a Class "A", "C", "E", or "G" liquor licence, this Department will conduct its standard review of the proposal and report to Council on the application. If the application is for a type of liquor licence which requires a public opinion process in accordance with Council policy and the application can be supported from a broad land use point of view, this Department would recommend that Council advise

the Liquor Control and Licensing Branch that it would be appropriate to consider the liquor licence application for preliminary site and applicant approval, but with the clear understanding that final Municipal approval is subject to a neighbourhood survey being conducted for the Municipality and further consideration of the public input by Council.

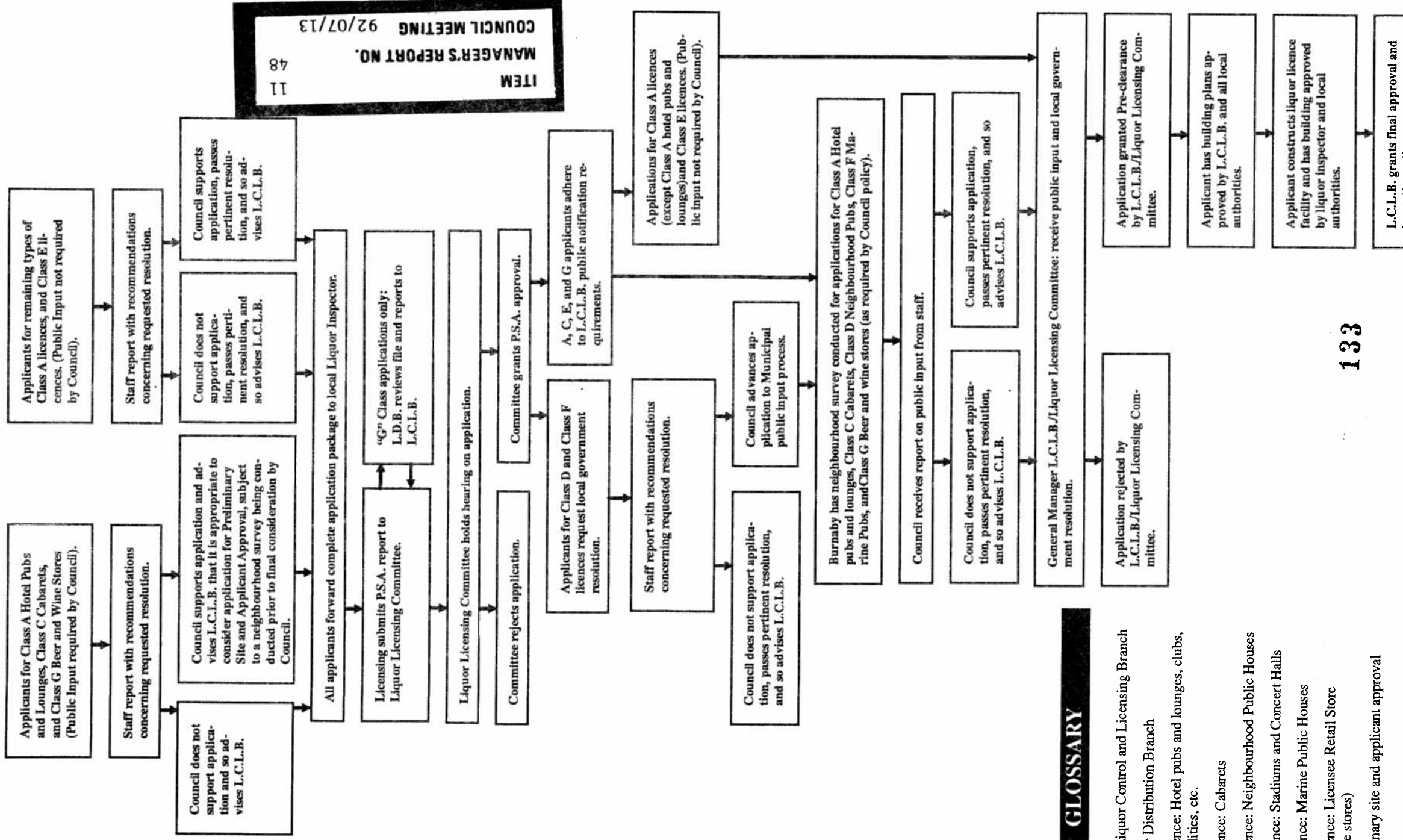
If the Liquor Licensing Committee subsequently grants preliminary site and applicant approval, the applicant would be referred back to Burnaby to have the required neighbourhood survey conducted and to seek a final resolution from Council in connection with the application. Upon receiving the Council resolution, the Liquor Licensing Committee would then consider granting pre-clearance approval to the application.

2.3 This procedure should accommodate the Municipality's objectives for assessing liquor licence applications, as any required public input process will be completed prior to Council considering a final resolution on the application. The procedure is also preferable to the Liquor Control and Licensing Branch, as applications for all types of liquor licences would receive initial consideration in principle from both Burnaby and the Province before starting any required public input process.

This process also conforms to the requirements for Class "D" Neighbourhood Public Houses and Class "F" Marine Public houses which are required to seek a local government resolution after preliminary site and applicant approval has been granted, but prior to pre-clearance being granted.

2.4 Applicants for liquor licences which require a neighbourhood survey are required to deposit sufficient monies to cover all the anticipated costs, including the necessary audit and administrative work associated with seeking public input on a liquor licence application. It should also be noted that Burnaby's business licence fees are structured to reflect Municipal inspection and administrative costs. As such, business licence fees for liquor establishments reflect the greater cost involved in processing.

Processing Procedure for Liquor Licence Application



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GLOSSARY

- L.C. & L.B.: Liquor Control and Licensing Branch
- L.D.B.: Liquor Distribution Branch
- Class "A" Licence: Hotel pubs and lounges, clubs, recreation facilities, etc.
- Class "C" Licence: Cabarets
- Class "D" Licence: Neighbourhood Public Houses
- Class "E" Licence: Stadiums and Concert Halls
- Class "F" Licence: Marine Public Houses
- Class "G" Licence: Licensee Retail Store (Beer and Wine stores)
- P.S.A.: Preliminary site and applicant approval

