

TO: CITY MANAGER

1995 NOVEMBER 22

FROM: DIRECTOR FINANCE

File: L34

SUBJECT: REGULATION OF LAP DANCING

PURPOSE: To provide Council with information on the regulation of lap dancing.

RECOMMENDATION:

1. THAT this report be received for information.

REPORT

Council, at its meeting of 1995 November 06, received correspondence from an Ontario organization requesting the enactment of a bylaw banning lap dancing. This report provides information on lap dancing and its regulation.

The Association for Burlesque Dancers has asked Canadian municipal governments to legislate against lap dancing to protect dancers from unsafe sex, assault, abuse and exploitation allegedly associated with the activity. Lap dancing refers to an individual private performance by an exotic entertainer in a nightclub.

The Burnaby R.C.M.P. have indicated that lap dancing is not occurring in Burnaby.

The Criminal Code of Canada has provisions relating to lewd and obscene conduct which may apply to lap dancing, although this legislation is difficult to enforce due to the ever changing public standards of obscenity and freedom of expression issues under the Charter of Rights and Freedom.

The *Liquor Control and Licencing Act* regulates entertainment in establishments holding Provincial liquor licences. Regulations developed pursuant to Section 50(2) of the Act limit the activities of exotic dancers and strippers. Table top dancing and audience participation including touching, being touched, or any involvement in the performance is strictly prohibited. Municipal governments may further regulate entertainment in these establishments pursuant to Section 50(1) of the Act.

Provincially licenced establishments that do not comply with the Act and its regulations are subject to enforcement measures. It is our understanding that a Vancouver establishment is presently before the Liquor Appeals Board with respect to lap dancing infractions.

To regulate adult entertainment parlours that are not covered by the Liquor Control and Licencing Act, the City of Vancouver enacted a bylaw providing for a stringent land use review process similar to that for drinking establishments such as cabarets, neighbourhood pubs and hotels. As well, Vancouver amended its Business Licence Bylaw to prohibit physical contact between adult entertainers and customers, regardless of the business setting.

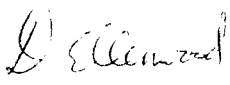
Legislation enacted by two Ontario jurisdictions, the Municipality of Metropolitan Toronto and the Municipality of York, prohibit workers at an adult entertainment parlour to touch, to be touched by, or have physical contact with, any other person in any manner whatsoever involving any part of that person's body. Ontario courts upheld the local government regulations on the grounds that local government was fully authorized by Provincial statute to regulate business in the interest of public health and safety.

The Health Department advises that lap dancing, when carried out as intended (i.e. a performance or entertainment) would not pose a public health hazard. However, in light of the allegations raised in Ms. Goldberg's correspondence, it would seem the activities involving physical contact, if they occur, cannot be construed as performance or entertainment and would likely be illegal.

Although the Health Department acknowledges the concerns raised by Ms. Goldberg, it would not be appropriate for the department to prejudge that illegal and dangerous sexual activities take place during all lap dancing. However, if these alleged sexual activities do in fact take place during lap dancing, the department agrees that there is a potential for the spread of communicable disease. In addition to provisions in the Criminal Code mentioned above, there are provisions in the Health Act allowing Medical Health Officers and Public Health Inspectors to identify health hazards and take appropriate action in terminating the health hazards.

The Planning Department is reviewing the land use implications of non liquor licenced adult entertainment parlours. At the present time, one such establishment is operating in New Westminster.

Staff will continue to monitor the issue and will report back as required.


per Rick Earle
DIRECTOR FINANCE

BP:vm

cc: City Solicitor
Director Planning & Building
O.I.C., R.C.M.P.
Medical Health Officer