

**TO:** CITY MANAGER July 16, 2002  
**FROM:** CITY SOLICITOR  
**SUBJECT:** LOCAL GOVERNMENT BYLAW FORUM  
**PURPOSE:** To provide recommendations on the Province's  
Local Government Bylaw Forum Proposal

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**RECOMMENDATIONS:**

1. **THAT** Council express its opposition to the Province of British Columbia's Local Government Bylaw Forum proposal.
2. **THAT** Council express its support for the continuation and expansion of the Province of British Columbia's current pilot Bylaw Court Project.
3. **THAT** the City write to the B.C. Attorney-General expressing its opposition to the Local Government Bylaw Forum proposal and its support for the continuation and expansion of the Bylaw Court Project.
4. **THAT** a copy of this report be forwarded to the U.B.C.M.

**REPORT**

Appearing as an item of correspondence on the agenda of Council's regular meeting of July 8, 2002 was a letter from the U.B.C.M. regarding the Province's Local Government Bylaw Forum proposal, advising that the Ministry of the Attorney-General had issued a discussion paper on this topic and would accept comments on the proposal until July 30, 2002.

The proposal would see the establishment of Local Government Bylaw Forums to replace the Provincial Court as the venue for dealing with "minor bylaw infractions". More serious bylaw infractions would remain in the Provincial Court system. The discussion paper issued by the Province states that only bylaw offences where significant fines or imprisonment are contemplated would continue to be heard in the Provincial Court.

The discussion paper states:

"The goal of the proposed model is to create a simple, fair, cost-effective system for dealing with minor bylaw infractions. The proposed model will meet this goal by:

- eliminating the requirement for personal service
- establishing a dispute resolution forum dedicated to hearing bylaw matters
- allowing the forum to make decisions in a simple, cost-effect manner
- avoiding the unnecessary attendance of witnesses
- eliminating the need to hire counsel
- ensuring the timely resolution of disputes"

The discussion paper compares the proposed Bylaw Forum with a system developed in the United Kingdom. However, it is stated that this non-court forum is used "for resolving parking tickets and some moving infractions" and that "the ticket is heard by a lawyer chosen from a roster of approved professional adjudicators".

The model proposed for B.C. would have a procedure as follows:

- commencement of process is by issuance of a Bylaw Notice specifying the offence and the amount payable
- if not disputed in 14 days the amount becomes payable
- service of Notice is by mail or by leaving it on motor vehicle
- if disputed, the matter is heard by a municipal employee entitled "Resolution Officer"
- Resolution Officer will decide whether there are sufficient grounds to proceed or whether to cancel the Notice
- Resolution Officer is entitled to enter into "compliance agreement" with offender and reduce or eliminate the Notice amount
- if Resolution Officer determines that the matter should proceed, it is referred to the Local Government Forum
- the Forum will be comprised of appointed volunteers, similar to a Board of Variance, or professional adjudicators, appointed by the Municipality
- the Forum will hear the matter and either confirm or cancel the Notice. Normally witnesses will not attend. The disputant may appear personally. Personal appearances by municipal employees *may* be allowed by the Forum. Otherwise, the decision will be based on written submissions
- there is no appeal from the decision of the Forum.

The discussion paper avoids the use of terms such as "guilt", "conviction", or "fine". The proceedings appear to be more in the nature of civil proceedings to collect money than offence proceedings to impose a sanction for breaking the law.

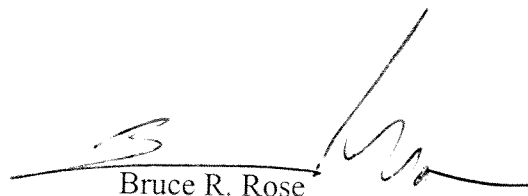
Staff have a number of concerns with the Local Government Bylaw Forum proposal:

- diverting bylaw prosecutions out of the Court system tends to minimize the seriousness of the conduct and, in a sense, undermine the importance of municipal bylaws and bylaw compliance. Under B.C. Law municipal bylaws are "enactments" with the same status as Provincial statutes and regulations, and deserving of the same respect. Having to answer to a Judge or Justice of the Peace in a formal and solemn court setting emphasizes the importance of bylaw compliance

- a Resolution Officer, as a municipal employee, will appear to be (and likely will be) biased
- unless the Municipality is prepared to pay for professional adjudicators, the issue of liability will be decided by persons who may have little knowledge of the law. The system being used for parking tickets in the United Kingdom which is put forward as a model in the discussion paper does rely on legally skilled adjudicators
- while the system may simplify and expedite the bylaw prosecution process, it would do so at the expense of due process, in the sense that the normal rules of evidence and proof would not be applied. It is questionable if this really serves the interests of the person charged or the community.
- the Municipality will pay all costs associated with the process, including the cost of having professional adjudicators if it elects not to use volunteers. Under the current system, the Province, under its responsibility for the administration of justice, pays for the operation of the Court system, including the salaries of Judges and Justices of the Peace.

For several years now, the Province has been operating pilot Bylaw Court projects in Kelowna, Kamloops, Prince George, and Vancouver. In these cities, certain days are dedicated in the Provincial Court for the hearing of bylaw cases by Justices of the Peace, normally without prosecution or defence counsel. By most accounts these pilot projects have worked well. They have freed up the Provincial Court judges' time to deal with more serious criminal proceedings, while ensuring that the bylaw charges are dealt with routinely in the Court system by persons with the necessary qualifications to adjudicate upon the matter.

While there is undoubtedly still room for improvement in the current system, staff believe that the Provincial Court remains the proper venue to deal with municipal bylaw infractions and that the Province should work to expand upon and improve its existing pilot Bylaw Court project.



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City Solicitor

BRR:sb

c.c. City Clerk

