
TO: CITY MANAGER **DATE:** 2008 January 14

FROM: DIRECTOR FINANCE

SUBJECT: **SECOND HAND DEALERS REGULATION BYLAW**

PURPOSE: To obtain Council authority to further amend the Burnaby Second Hand Dealers Regulation Bylaw No. 440, as a result of the public consultation process.

RECOMMENDATIONS:

1. **THAT** Council authorize the bylaw amendments as noted in this report.
2. **THAT** a copy of this report be forwarded to:

Mr. Victor Kim
Owner, Metro 2000 Pawnbrokers Ltd
4939 Kingsway
Burnaby, BC V5H 1T5

Mr. Michael Isman
Director, BC Pawnbrokers Association
515 Columbia St.
New Westminster, BC V3L 1B2

REPORT

At the 2007 November 5 Open Council meeting, Council adopted the staff recommendation to amend the Burnaby Second Hand Dealers Regulation Bylaw to comply with a recent court decision and for housekeeping and pragmatic reasons. Once the initial readings of the proposed bylaw amendments were approved by Council, notice of the proposed changes in business regulation was published in an advertisement in a local paper to provide a 30 day period for written submissions by those who may be affected by the bylaw. Notification was also sent directly to the two Burnaby businesses involved in pawn and second hand activity.

Two submissions (*attached*) on the proposed bylaw amendments have been received and reviewed. The following is a combined summary of the points raised with comments and recommendations on each.

On the bylaw amendments currently under consideration:

Point 1 One piece of picture identification should be required for a transaction, rather than two pieces of identification, including one piece of picture identification, as currently proposed.

Comment – One piece of government issued picture identification as noted in the bylaw is sufficient for bylaw administration. This is a common requirement in neighbouring cities.

Recommendation – Amend the bylaw as suggested.

On the bylaw in general:

Point 1 Eliminate the specific reference to photocopiers and fax machines in the definition of electronic office equipment.

Comment – Bylaw definitions were developed in consultation with the RCMP and note specific goods as deemed necessary.

Recommendation – No change in the bylaw.

Point 2 Add drivers licences from the U.S.A. as acceptable picture identification.

Comment – United States drivers licences provide information necessary for the purposes of the bylaw.

Recommendation – Amend the bylaw as suggested.

Point 3 Persons buying second hand goods from a second hand dealer or pawnbroker should not be required to give their name and address, nor should the amount paid for the item be recorded.

Comment – One of the submissions references a current legal action related to this point. Further review of this point is proposed when the courts have issued a ruling.

Recommendation – No change in the bylaw.

Point 4 It is no business of a pawn broker to be asking or investigating or have an opinion about someone's past, in relation to criminal history.

Comment – The bylaw states that “No pawnbroker shall take any property... from any person whom he has reason to believe to have been convicted of theft or burglary or other similar crime.” The bylaw requires no questioning or investigation by the pawnbroker. A pawnbroker may be aware of the criminal nature of a person by way of personal knowledge, police reports or public announcements.

Recommendation – No change in the bylaw.

Point 5 Definition of second hand dealer is too broad and should include consignment stores.

Comment – Bylaw definitions were developed in consultation with the RCMP and no change is proposed at this time.

Recommendation – No change in bylaw.

Point 6 The list of authorized picture identification should be amended.

Comment – The acceptable identification listed in the bylaw can be used provided it contains a photograph of the person in whose name it is issued. The listed identifications will be reviewed and recommendations presented at a later date as necessary.

Recommendation – No change in the bylaw.

Point 7 Inspection of the premises and records should be regulated.

Comment – The inspection of business premises, business records and second hand and pawned goods is required in the administration of the bylaw.

Recommendation – No change in the bylaw.

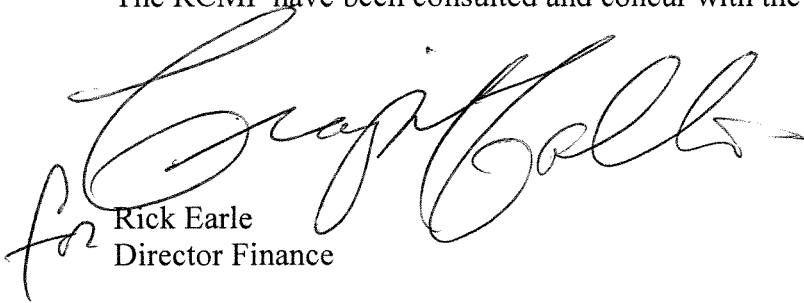
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Point 8 Age restriction of 18 years for pawnbroker employees should be removed.

Comment – Employment age is regulated by Provincial employment standards and the current reference to employee age restrictions is not in keeping with the intent of the bylaw.

Recommendation – Amend the bylaw as suggested.

The RCMP have been consulted and concur with the bylaw changes as recommended.


for Rick Earle
Director Finance

CMC:sk

Attachments

Copied to: City Solicitor
O.I.C., R.C.M.P.

Received 08 Jan 3

Re: Bylaw #12385 Proposed Amendments

Metro 2000 Pawn Brokers Ltd.
4939 Kingsway Ave, Burnaby, BC, V5H 1T5
Tel: (604) 451-5626
Email: vkim999@gmail.com

Dear Mr. C. Collis

Thanks for the letter you sent me regarding Bylaw # 12385. It's no doubt the bylaw which was created in 1924 needed to be updated.

Any changes made to the Bylaw should help related businesses work properly, help in tracking of any stolen items and benefit the public, my business and the city. *

After reviewing the draft that was sent to me I conclude that parts 1-9 of the draft are fine. 11-16 are also reasonable. Parts 18-21 I agree with also.

In my opinion the words in section 1 (h) (H) "electronic office equipment including photocopiers and fax machines" should be eliminated as items such as photocopiers and fax machines are rarely seen anymore and fall under "used electronic equipment" of section 1 (h) (i).

I think is reasonable to add in 1 (i) (i) the words: "and USA" as it is not required of American citizens to present a passport when entering Canada and some people may be here with American government issued ID.

Section 7 (6) (b2) may need to be changed to one piece of the stated acceptable ID in section 1 (i) of the same bylaw. Government issued picture ID should be more than sufficient to identify that person, it would not help at all to have another piece of ID that does not even have a picture or is not issued by the government. It is rather pointless to ask people to see their bank card or gym membership card, etc. Asking for someone's SIN card or number is an invasion of privacy and security.

The section of the bylaw that I am most concerned about, that has not been addressed is 7 (6) (c). I think that this section is an invasion of privacy, and is unnecessary in this bylaw. Someone that comes into a store to purchase something should not be asked their name and address. How is this information, that the person gives, even to be verified that it is accurate if the RCMP or City would need to? This section is almost implying that we are dealing in stolen goods as why else would we be asking this information? It's like saying: "This item has been checked by RCMP and City over the last month, but they might come to your house and get it back..." We are not officers of the law and it seems ridiculous to be requiring this information. I would not feel comfortable giving my name and home address to a random store. In addition to security reasons, getting an address of someone that does not live in this city or even country is absolutely pointless.

I have hundreds of regular customers in my pawnshop. They all normal citizens and making special rules for them, like asking address and name, to them makes their purchase look abnormal.

Section 9(10) also concerns me about privacy. I think it should be taken out. The first part is ok, a pawn is a contract and if someone is inebriated, they shouldn't be signing this pledge. The second part is not correct as it is no business of a pawnbroker to be asking or investigating or have an opinion about someone's past. How is the pawnbroker expected to be judging if this person has a criminal record relating to theft??? The clothes they wear? The colour of their skin? Where they live?

In conclusion I would say that most people have the perception of pawnshops as a part of crime business. Nobody thinks that we are actually the ones who operate between government power such as RCMP on one side and some people who could be involved in crime on the other. We are honest and just want to give fair chance to people whose item was stolen to find them in pawnshops. When an item is sold on the street it cannot be recovered at all.

I completely agree with the amendment about purchase holding time of one month. It will give a chance to recover items that were stolen during people's vacation.

I really appreciate you putting your attention to renewing the bylaw, and if you need my opinion on any other kind of discussion regarding the bylaw I will be glad to assist you any time.

Sincerely,



Victor Kim
Owner/Operator
Metro 2000 Pawnbrokers Ltd.
Citizen of Burnaby, BC, Canada

*Mr. C. Collis! Happy New Year!
The best wishes to you and your family!*

Victor Kim

Dec. 4, 2007

Dear Mayor and Council:

Re Bylaw 12385: A Bylaw to Amend Burnaby Second Hand Dealers
Regulation Bylaw

I write to you as the spokesman for the B.C. Pawnbrokers Association. In general terms, there are only 3 issues that are relevant in a second hand or pawnbroker's bylaw. They are: **customer identification, reporting and defaced serial numbers**. I note that this proposed bylaw goes far beyond those topics. Previous studies and good common sense have found that beyond the 3 topics I have noted, all other regulations tend to have a negative impact on the consumer, all of whom are of voting age.

Before making my comments, I think that you should know that I am the general manager of the largest pawnbroking company in Canada, have served on the Board of Directors of the B.C. and National (USA) Pawnbrokers Association for many years and have assisted numerous municipalities in creating good bylaws over the years. I am the most knowledgeable person on the subject in B.C.

That said here are my comments on improving the proposed bylaw for the City, the dealers and their customers.

Sec. 1 (h) (ii) This definition of a second hand dealer is far too loose. It would allow a second hand dealer of used jewellery only to be exempt from this bylaw. A better definition of a second hand dealer is: any person or business who receives used merchandise in any manner from a member of the public for commercial purposes.

I note that **Sec. 1 (h) (vi)** allows consignment stores an exemption from the bylaw. In light of the number of such stores dealing with eBay and other internet auction sites, this leaves a monster loop hole open. Consignment stores (other than used clothing stores) **should** be subject to the same regulations as any other second hand dealer. The bylaw as it stands would only drive stolen property to consignment store where nothing is reported to the police. This really requires re-thinking. The Vancouver Police insisted that consignment stores be includes as second hand dealers.

Sec. 1 (i) (iii). A Status Indian card is not good identification for anything as it does not contain an identification # or an address or anything that would assist the police in identifying a suspect.

Sec. 1 (i) (v) A parole card is not much better that the Indian Status card. Further, Sec. 9 (10) states that no pawnbroker shall take any property from a convicted thief. How is the pawnbroker to know what crimes have been committed by someone with a parole card? This section is contradictory with Sec. 1 (i) (v).

Sec. 5 and Sec. 7 (6) (b) This is a blanket authorization for any police officer to enter and inspect the records and property at any business defined in Sec. 4. This amounts to a warrant-less search and is clearly improper. This section should allow the inspection of goods and records only so far as to determine that all records match the goods and police report, i.e. to see if the dealer is keeping proper records. **Anything else is part of a criminal investigation and requires a search warrant.**

For information purposes, here is how I would word a bylaw section regarding administrative inspections:

Every Second Hand Dealer must produce immediately, during business hours, the Second Hand Dealers' Register for an administrative inspection by the Chief Constable or any Constable. Such inspection shall be carried out by not more than three police and City Hall personnel. Such inspection shall be made to verify that the descriptions in the Second Hand Dealers' Register match the daily police report and the actual property therein

described. In addition, every Second Hand Dealer must keep within his shop any Second Hand Dealer's Register that contains any entries which are less than 24 months old.

Sec. 7 (6) (b2) Why do you require a customer to provide valid photo id as specified in Sec. 1 ((h) and then require him to provide a second piece of non-photo id? If you can't identify the customer from the photo id, you surely can't identify him from a second non-photo id. This is an unnecessary burden for the customer and serves no purpose. This is stated again in Sec. 9 (1) (a) in the proposed amendments.

Sec. 7 (e) Why do you want the dollar amount of the transaction to be reported (sec. 7 (a) (2)? This is not something that will help the police to locate stolen property. This is personal financial information and should not be reported. The B.C. Court of Appeal in its July decision stated that only property information should be reported. The amount of a loan or purchase is **not** part of the property description.

It may interest you to know that this issue is currently before the courts in Kelowna. You might want to delay this provision until that case has been heard. I firmly believe that the pawnbroker (Premier Pawnbrokers) will prevail in that case.

Sec. 7 (j) Once again, you are attempting to give the police blanket search powers without a warrant. Not only is this improper, but it is also ultra vires. This is the **third** place in the bylaw (see sec. 5 and sec. 7 (6) (b) this is noted.

Section 9 (4) Here is the **fourth** attempt to give the police unlimited search powers without a warrant. Again, a police officer should have the power to inspect the "book" against the item and against the police report to ensure that the dealer is obeying the bylaw. Any other type of "inspection" is a criminal investigation and requires a search warrant.

Sec. 9 (11) Why can't a pawnbroker employ his minor child? What form of corruption do you think will take place? This type of regulation is straight out of the 1880's and makes no sense in 2007.

Since the City of New Westminster's bylaw was thrown out by the Court of Appeals in July, I have been working on a new bylaw for New Westminster. I have a complete bylaw prepared and would be happy to forward it on request.

If I can be of any further assistance in this matter, it would be my pleasure to do so.

Yours truly,

Michael Isman
Director, Media Liaison Officer
B.C. Pawnbrokers Association

General Manager
Royal City Jewellers & Loans Ltd.