



TORONTO STAFF REPORT

April 8, 2004

To: Economic Development and Parks Committee

From: Joe Halstead, Commissioner Economic Development, Culture and Tourism

Subject: Application by the Bloor-Yorkville Business Improvement Area for a “Tourist Area” Exemption from the Retail Business Holidays Act
Toronto Centre-Rosedale -Ward 27

Purpose:

The purpose of this report is to seek City Council approval of a By-law to permit retail businesses within the Bloor-Yorkville Business Improvement Area to remain open on holidays identified in the Retail Business Holidays Act for the maintenance and development of tourism.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report.

Recommendations:

It is recommended that City Council:

- (1) enact a by-law, prepared by the City Solicitor substantially in the form attached, to permit retail businesses within the Bloor – Yorkville Business Improvement Area as detailed in the application submitted December 4, 2003, to open on holidays identified in the Retail Business Holidays Act commencing with the July 1, 2004 Canada Day holiday;
- (2) authorize the Commissioner of Economic Development, Culture and Tourism to recover advertising and any other associated costs incurred by the City respecting the application from the Bloor – Yorkville Business Improvement Area; and
- (3) the appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Background:

The Retail Business Holidays Act, R.S.O. 1990, Chapter R.30, as amended, requires retail businesses in Ontario to be closed on New Year's Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day and Christmas Day.

The Act explicitly provides exemptions for a number of different retail categories, including stores selling foodstuffs, tobacco, antiques, handicrafts, gasoline/motor oil, nursery stock, flowers, fresh fruit, books, newspapers, periodicals and art galleries, of less than 2,400 square feet and employing less than four persons; and pharmacies less than 7,500 square feet. Stores licensed to sell liquor under the Liquor Licence Act or to sell goods and services under the Tourism Act are also exempted from the requirement to close on the designated holidays, as are restaurants, hotels, laundromats and other coin-operated services, automobile and boat rental establishments and service/repair facilities.

The Act also provides that, upon application by one or more persons carrying on a retail business in the municipality or by an association representing a group of retail businesses, a municipal council may by by-law permit those business establishments to open on holidays for the maintenance or development of tourism.

There have been four other applications for exemptions prior to this application. In August 1994, Queen's Quay Terminal applied for and was granted exemption to be open on holidays except Good Friday, Christmas Day and New Year's Day. In October 1995, the Eaton Centre and The Bay applied for and were granted an exemption to be open on holidays except Good Friday and Christmas Day. In 1995, the Bloor - Yorkville BIA applied for and was granted a one-day only special event exemption for Canada Day 1995. In May 2002, the Yonge Street BIA application to open on all designated days was approved by City Council.

In December 2003, the Bloor Yorkville Business Improvement Association (BIA) submitted an application under the Retail Business Holidays Act to the City, to permit its member stores to open on holidays as identified in the Act.

This report responds to the application submitted by the Bloor – Yorkville BIA.

Comments:

A. Process and Procedures

The Retail Business Holidays Act sets out the following overall process for consideration of an application to permit retail business establishment to remain open on designated holidays:

1. an application must be submitted by one or more persons carrying on retail business in the municipality, or by an association representing persons carrying on retail business;
2. before passing a by-law the council shall hold a public meeting;

3. notice of the public meeting shall be published at least 30 days in advance of the public meeting;
4. any person that attends the public meeting shall have the opportunity to make representations in respect of the proposed by-law;
5. in passing a by-law Council shall take into account the principle that holidays should be maintained as common pause days;
6. any person who objects to a by-law made by a municipal council may appeal to the Ontario Municipal Board (O.M.B.) provided such objection is filed not later than 30 days after the by-law is passed; and
7. subject to any appeal to the O.M.B, the by-law comes in to force on the 31st day after being enacted by council.

The Regulations pursuant to the Retail Business Holidays Act, Ontario Regulation 711/91, sets out the tourism criteria that must be met before a municipality may pass an exempting by-law. The Regulation states:

- (1) A retail business establishment may be exempted if,
 - (a) it is located within two kilometres of a tourist attraction; and
 - (b) it is directly associated with the tourist attraction or relies on tourists visiting the attraction for business on a holiday.

- (2) An exemption granted on an area basis may be given if,
 - (a) all of the retail business establishments in the area are within two kilometres of the tourist attraction;
 - (b) the area does not exceed that necessary to encompass all of the retail business establishments for which an exemption is sought; and
 - (c) at least 25 per cent of the retail business establishments in the area are directly associated with the tourist attraction or rely on tourists visiting the attraction for business on a holiday.

- (3) For the purposes of this section, a tourist attraction is limited to,
 - (a) natural attractions or outdoor recreational attractions; and
 - (b) historical attractions; and cultural, multi-cultural or educational attractions.

This is the second application received since amalgamation. Prior to amalgamation, all applications for exemptions were considered by Metropolitan Council. Metro Council implemented the following process to ensure the cost of processing applications under the Retail Business Holidays Act was borne by the applicant. These same procedures were followed when City Council considered the previous application from the Downtown Yonge Business Improvement Area

1. The applicant is responsible for demonstrating compliance with the Act, and Regulations pursuant to the Act, both before Council and the Ontario Municipal Board, if required.
2. A standard 'Application Form' was used to ensure consistency among all applicants.
3. The cost of advertising the public meeting is to be borne by the applicant.
4. The cost to the municipality to engage an external consultant to review the application, and participate in any Ontario Municipal Board hearing(s) is to be borne by the applicant.
5. The application fee for each area or special event application was \$2,400. The application fee for an individual application was \$800. These fees were based on an estimate of the cost for an external consultant to review an application and included up to 2 hours of attendance at a Committee, Council and/or Ontario Municipal Board meeting. Additional time was billed to the applicant at an hourly rate.

B: Application for Tourist Area Exemption from Retail Business Holidays Act:

On December 4, 2003, the Bloor – Yorkville BIA submitted an application for a Tourist Area exemption from the Retail Business Holidays Act. The exemption would permit retail businesses located within the boundaries of the BIA to open New Year's Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, and Christmas Day. In accordance with the requirements of the Act, a notice of a public meeting to consider this application was advertised (April 2, 2004) at least 30 days in advance of scheduled meeting (May 3, 2004, Economic Development and Parks Committee).

The BIA is already a prominent tourist destination in the City of Toronto. The concentration of hotels, cultural venues, restaurants and shopping destinations is noted in the City of Toronto's tourism materials as well as in those promoted by Tourism Toronto and numerous travel guides to the City. The BIA's central location means that it is located within two kilometres of numerous tourist attractions, including The Royal Ontario Museum, the Bata Show Museum, The Gardiner Museum of Ceramic Art, the University of Toronto, The Toronto Reference Library, the Village of Yorkville Park, The Downtown Yonge Street BIA, Yonge Dundas Square, and many other cultural, educational, historic and outdoor attractions. There are also six major hotels located within the BIA.

The application takes into consideration the principle that holidays should be maintained as common pause days. Although providing this exemption would result in businesses being open on a number of statutory holidays, there is no intention to require any of the members of the BIA to open should they choose not to. Many employees working on holidays are part time employees, including students who want or need to work on those days. Retail shopping supports this area's tourist activities that are enjoyed by people during their leisure time.

The close relationship between tourism and retail activity was substantiated by a survey conducted by the BIA in August of 2003. The results show that 80% of respondents and more than 32% of the total retail establishments in the BIA indicated that they rely on tourist business

and would rely primarily on tourist business during holidays. This result exceeds the Retail Business Holidays Act criterion that at least 25% of retail businesses, rely on tourists. In total, the BIA is seeking an exemption for 446 retail businesses.

Conclusions:

Tourism is a key economic activity within the City, and particularly within the downtown. Studies have shown that shopping is the single most common activity participated in by tourists. It is an activity that appeals to convention delegates, leisure tourists, and business travellers. For many people, shopping can be the primary reason to travel to a destination. Consequently, providing opportunities to shop enhances a visitor's stay and maximizes the economic benefits of tourism to the City. Conversely, cities that have 'rolled-up the sidewalks and closed for business', particularly on holiday weekends when leisure tourist traffic is often at its peak, can leave visitors dissatisfied and less inclined to return or to recommend the destination to their friends and colleagues.

The Retail Business Holidays Act explicitly exempts a number of retail business categories from the requirement to close on designated holidays and permits municipal councils to exempt other retail businesses that satisfy tourism criteria. The principle behind the legislation is to provide City Council with the flexibility to support the maintenance and development of tourism. Council has consistently recognized the importance of tourism to the City through its support for international and regional events such as the Olympic Games, World Youth Days, Film Festival, Caribana, Taste of the Danforth, and investments such as the National Trade Centre. Council has also recognized the importance of retail businesses in the Yonge Dundas area to support for tourism by previously exempting the Eaton Centre and The Bay from the requirements of the Retail Business Holidays Act. The application respects the principle of a common pause day by clearly stating that no employee will be forced to work on either holiday and no retail business will be required to open.

The Bloor - Yorkville Business Improvement Area, is in the heart of the city. It is in close proximity to numerous cultural, educational, historic and outdoor attractions. The City and the local business community have made major investments in revitalizing the area and strengthening its appeal as a tourist destination. Designation of the Bloor - Yorkville BIA as a 'Tourist Area' will contribute to the success of these revitalization efforts and help to attract more tourists and investment to Toronto.

Permitting retail establishments within the Bloor - Yorkville BIA to open on New Year's Day, Good Friday, Easter Sunday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, and Christmas Day, clearly supports the maintenance and development of tourism in the City. The application submitted by the Bloor - Yorkville BIA satisfies the requirements of the Retail Business Holidays Act and the tourism criteria specified in the Regulations pursuant to the Act, and it is recommended that City Council enact the necessary by-law in the form attached, as prepared by the City Solicitor.

The Retail Business Holidays Act states that a by-law adopted by a municipal council does not come into force until the thirty-first day after it is passed, subject to any appeal to the Ontario

Municipal Board. Therefore the by-law should be forwarded to City Council for consideration at its May 18, 2004 meeting in order to be in effect on July 1, 2004, Canada Day.

The costs of the application are to be borne by the applicant. The Bloor – Yorkville BIA has provided a deposit of \$2500.00 towards these costs. Authority is sought for the Commissioner of the Economic Development, Culture and Tourism to invoice the Bloor – Yorkville BIA for the difference in the actual costs incurred to advertise the public meeting and to prepare and present a case at an Ontario Municipal Board hearing, should one be required.

Contact:

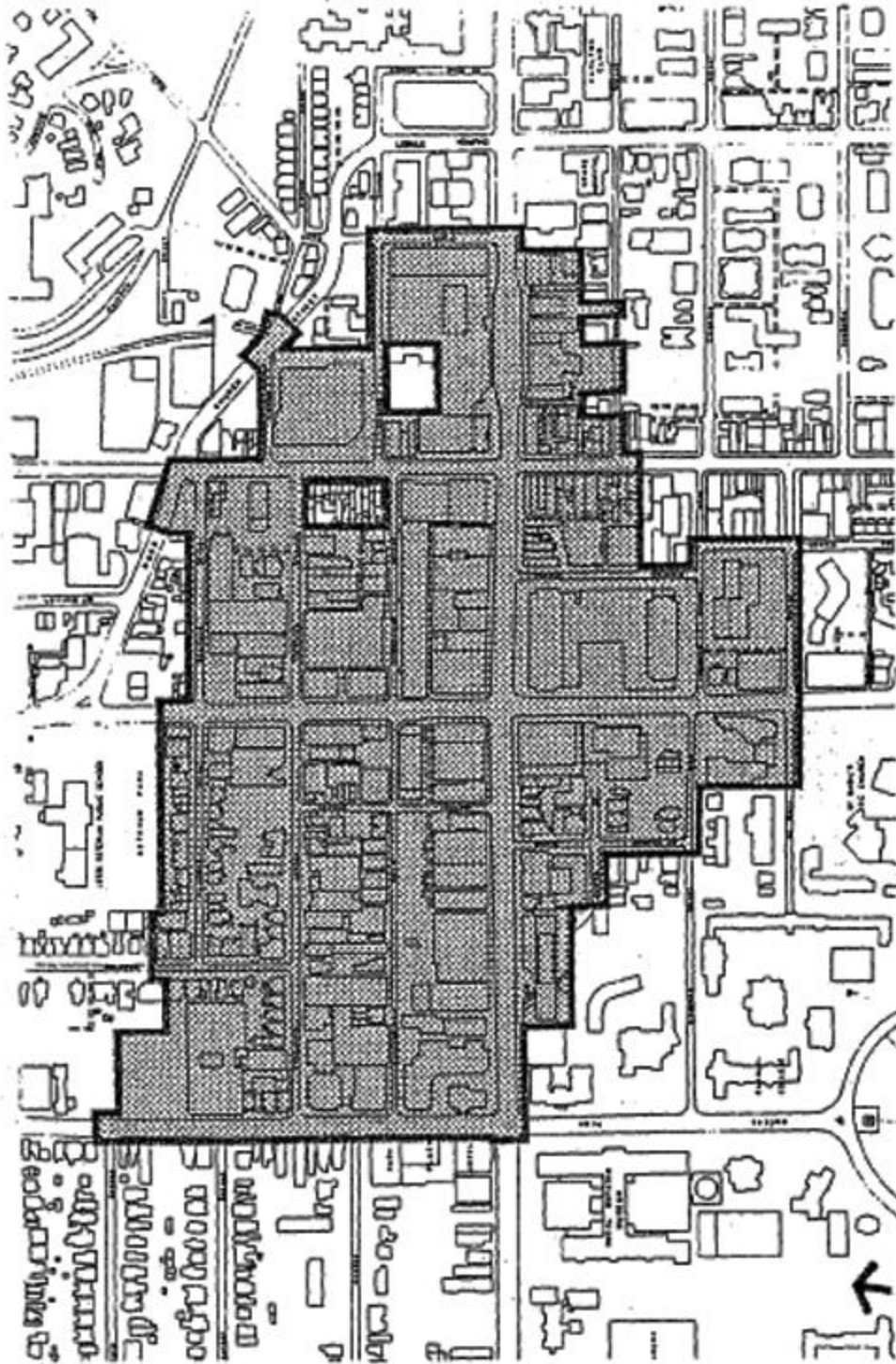
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Joe Halstead
Commissioner Economic Development, Culture and Tourism

List of Attachments:

Attachment No. 1 – Bloor – Yorkville Business Improvement Area
Attachment No. 2 – List of Excluded Business Establishments

Bloor – Yorkville Business Improvement Area



Excluded Retail Business Establishments

Andrew's	55 Avenue Road	Fashion - Women
Bay Bloor Radio	55 Bloor Street West	Electronics
Beauty Club Petite Spa	1170 Bay Street	Salons/Spas/Estheticians
Claus Feser Haute Coiffure	55 Bloor Street West	Salons/Spas/Estheticians
Eddie Bauer	50 Bloor Street West	Fashion
Tiffany & Co.	85 Bloor Street West	Jewellery