

NOTICE OF MOTION

24/01/2012

RE: LICENCE AND COMMUNITY STANDARDS APPEAL BOARD ROLE CLARIFICATION

Alderman Diane Colley-Urquhart

WHEREAS pursuant to section 8 of the Municipal Government Act, R.S.A. 2000, c. M- 26, Council may provide for a system of licences, permits and approvals and provide for an appeal, the body that is to decide the appeal and related matters;

AND WHEREAS pursuant to section 203(1) and (2) (e) of the Municipal Government Act, Council may delegate a duty to decide appeals if the delegation is to a council committee and authorized by bylaw;

AND WHEREAS under the provisions of the Municipal Government Act, the Council of The City of Calgary may pass bylaws respecting businesses and provide for a system of licensing;

AND WHEREAS bylaws of the City of Calgary regulating businesses delegate authority to the Chief Licence Inspector and Manager of Livery Transport Services to convene a hearing to determine whether there are just and reasonable grounds for the refusal of an application, a revocation or a suspension of a licence, or for imposing conditions on the licence or Licencee;

AND WHEREAS the Licence and Community Standards Appeal Board Bylaw 50M2011 is silent on the requirement for an appeal brought before it to be heard "de novo" meaning a new hearing by the Licence and Community Standards Appeal Board;

AND WHEREAS decisions of the Chief Licence Inspector and Manager of Livery Transport Services resulting from a hearing are subsequently being heard de novo by the Licence and Community Standards Appeal Board, duplicating the hearing process and negating the authority granted to the Chief Licence Inspector and Manager of Livery Transport Services to adjudicate Business Licence matters;

AND WHEREAS hearings before the Chief Licence Inspector and Manager of Livery Transport Services follow all principles and procedures applicable to administrative law tribunals;

AND WHEREAS the Chief License Inspector, Manager of Livery Transport Services and their designates are trained in administrative law principles and procedures including the interpretation of legislation.

NOW THEREFORE BE IT RESOLVED that Administration be directed to prepare amendments to the Licence and Community Standards Appeal Board Bylaw 50M2011 that;

- a) clarifies the role of the Chief Licence Inspector, Manager of Livery Transport Services and Licence and Community Standards Appeal Board with respect to hearing matters before them,

- b) directs the Licence and Community Standards Appeal Board to hear appeals based on the evidence presented by Chief License Inspector or Manager of Livery Transport Services, not through a de novo hearing during Licence and Community Standards Appeal Board proceedings, and
- c) no new evidence be allowed unless it could not have been discovered through due diligence at the time of the first hearing adjudicated by the Chief License Inspector or Manager of Livery Transport Services.

And report back to the SPC on Community & Protective Services with proposed amendments, no later than 2012 April 04.