

LATE DISTRIBUTION FOR COUNCIL - FEBRUARY 1, 2007

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CITY OF VANCOUVER

ADMINISTRATIVE REPORT

Report Date: January 31, 2007
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Meeting Date: February 1, 2007

TO: Vancouver City Council

FROM: Chief License Inspector in consultation with the Chief Constable

SUBJECT: Secondhand Dealers and Pawnbrokers By-Law Amendments: Consignment Stores

RECOMMENDATION

- A. THAT Council approve an amendment to the Secondhand Dealers and Pawnbrokers By-Law which creates a new Consignment Dealer classification, separate from the existing Secondhand Dealer classification, and exempts certain goods in this new business classification, including sporting goods valued at less than \$100, from the secondhand dealer holding period and reporting requirements;
- B. THAT Council approve an amendment to Council's resolution of November 30, 2006 to amend the Secondhand Dealers and Pawnbrokers By-Law to add to the By-law "race", among other things, as a physical descriptor by deleting this requirement from that resolution;
- C. THAT Council support a review of the Secondhand Dealers and Pawnbrokers By-law to allow the use of a digital photograph to confirm the identity of a seller in addition to picture identification;
- D. THAT Council instruct the Director of Legal Services to prepare the necessary amendments to the Secondhand Dealers and Pawnbrokers By-Law, generally in accordance with Appendix A.

GENERAL MANAGER'S COMMENTS

The General Manager of Community Services recommends approval of the aforementioned recommendations.

CITY MANAGER'S COMMENTS

The City Manager reminds Council of the difficulties related to property crime in the city. For example, last year, the number of theft from auto incidents was 14,871 and there was a total of 8655 break & enter property crimes. Property crime creates many victims and the challenge here is to strike a balance between the general business needs and wishes of the community and provide tools for law enforcement to use to catch thieves and recover stolen property.

COUNCIL POLICY

The Secondhand Dealers and Pawnbrokers By-Law regulates secondhand dealers, pawnbrokers and junk dealers. Presently, all consignment stores, including sporting goods consignment stores, fall under the Secondhand Dealer definition.

PURPOSE

The purpose of this report is to provide Council with information on the current regulations for Secondhand Dealers and the implications of creating a distinct consignment dealer classification, separate from the Secondhand Dealer classification.

BACKGROUND

Comparison of Secondhand Dealers, Pawnbrokers and Consignment Stores

Secondhand dealers allow a person to sell something in their possession directly to the store. A pawnshop allows a person to borrow money, using an item as collateral but the person still owns the item. The pawnshop keeps the item until the person returns and repays the loan with interest. In the consignment store the item is still owned by the person until it is sold by the store. The store charges a percentage fee to sell the item using their sales people, advertising and floor space. Whereas pawnshops and secondhand dealers pay money to the customer at the onset of the business relationship, consignment stores pay no money until the item has been sold, thus facing less or no risk/loss. If the police find and seize stolen property in a consignment shop, the store loses nothing, however, pawnshops and secondhand dealers would lose the money they paid out.

The important difference in consignment stores is the retention in ownership of the property until a sale. A pawn can be purchased by anyone who wants to pay the loan off and the secondhand store is an outright buy and the transaction is complete. In both those cases the person the police may be interested in is out of the picture.

Current Secondhand Dealer Regulations

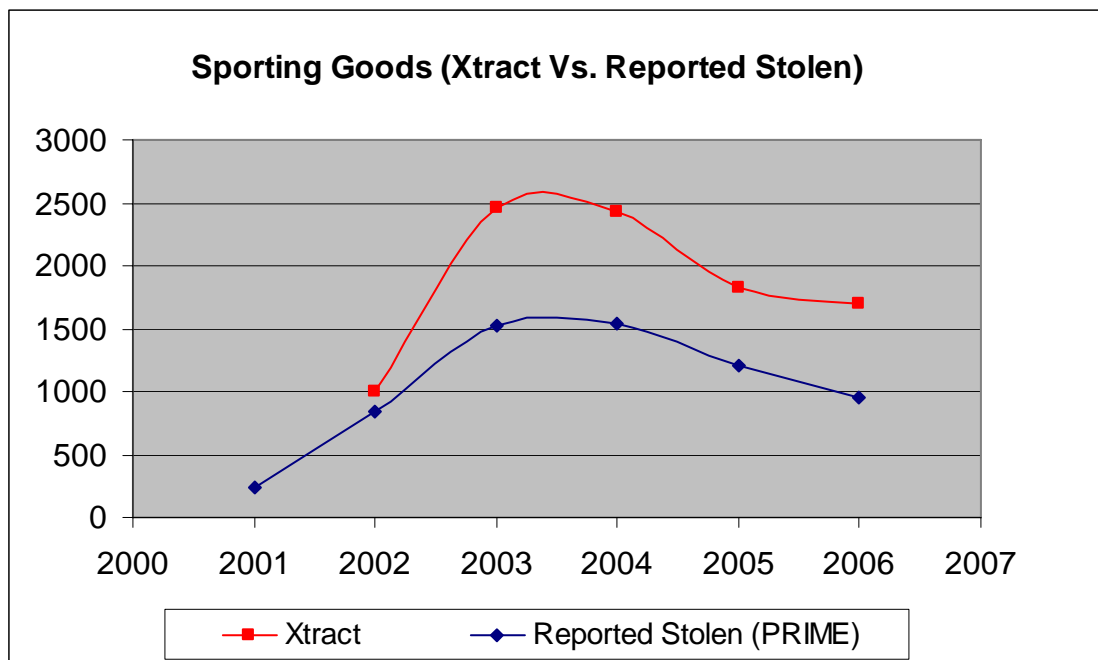
Vancouver has had regulations and control over Secondhand Dealers and Pawnbrokers since 1942. This control has become even more important in the last 5 years as property crime rates have soared. Since 1942, various amendments to the regulations have been made currently requiring all Secondhand Dealers to:

- keep a register of all property purchased, maintained either electronically or by hand, which is to include confirmation of the identity of the seller by way of picture identification;
- restrict buying and selling of secondhand goods to their own premises;
- not purchase any property between 6pm to 6am of the next day;
- not purchase property whose serial number or other identifiable marking has been tampered with or removed;
- not purchase property from any person under 18 years of age;
- allow the police to inspect their premises at all times;
- paint and maintain the name and address of their business on the front of the premises and on any vehicle used in the business;
- clearly identify each item of property purchased and not tamper with or remove the property from the premises;
- maintain each item of property for at least 35 business days when using an electronic register and 49 business days when completing the register by hand; and
- obtain a Retail Dealer license if new property is also being sold.

The most recent amendments occurred in November 2006 and included eliminating the option for manually recording the register by requiring all dealers to use a specific electronic property reporting system (ie. Xtract), requiring proper identification of all sellers and allowing for off-site storage to facilitate the keeping of goods for larger stores. All other regulations, including the required property holding periods and the type of goods to be held have been in effect for many years and apply to all licensed secondhand dealers, including consignment stores.

The Xtract system of reporting has been available in Vancouver since 2000 to control and monitor transactions taking place in the secondhand industry. When a suspicious transaction or one involving reported stolen property occurs the Vancouver Police Department (VPD) is electronically notified and investigators can start the process of recovering a victim's property.

Below is a graph that depicts the reporting of stolen sporting goods to the VPD compared against goods reported to Xtract. It clearly shows a link between goods going missing to goods forming part of a transaction in Vancouver's secondhand industry. The important lesson we can learn here is if more sporting goods were clearly marked by the victim, or serial numbers recorded by victims, the VPD's rate of recovery would increase dramatically.



Regulated Property Holding Periods

As mentioned above, the required holding period for all secondhand dealers is 35 days for property reported electronically and 49 days for property that is reported by hand to the VPD. These numbers are the result of the VPD experience with victim reporting profiles.

In a typical case where property is stolen, the police will respond on that date, take the initial report and collect any forensics that may assist in solving the case. Generally the victim is unaware of the extent of their loss on this date. Contact information is left with the victim and it takes from 1 to 13 days for them to gather their information as they may have to contact stores from where they purchased items or registries that may have identifying information on their property. Over the next 14 to 20 days, the victim will contact the police with a complete list of stolen property. If a victim is insured, a parallel process with the insurance company takes place. Once the police get the list of stolen items, the original investigator must input the data into PRIME, the police reporting system, which could take another few days. If unique serial numbered items are included in the list, the serial numbers need to be uploaded in CPIC, which again can take another few days. Once the data is in PRIME and CPIC it is compared against Xtract property data. Similar property or exact matches are investigated by the Anti-Fencing Unit with the VPD.

The timeline from the initial crime to the assignment for investigation (recovery of property) could easily take 25 to 35 days. A shorter property holding period would decrease the chances of recovering stolen property. Furthermore, as secondhand dealers are required to properly identify only the seller, if the police investigation is delayed, there is no record of the buyer.

DISCUSSION

Enforcement of Secondhand Dealer Regulations

Over the last few years, the VPD and Licence Office staff have been working together closely to ensure that all secondhand dealers in the City conform to the regulations in the Secondhand Dealers and Pawnbrokers By-Law. Although most licensed secondhand dealers abide by the City's regulations, there are certain stores that have not complied resulting in the need for enforcement.

Business Practices of Consignment Stores

Most consignment stores in the city pay the consignor by cash after the sale of the property. However, some sporting goods consignment stores in the city pay the consignor with a cheque mailed out to their home shortly after the property has been sold. These operators believe that as subsequent payment by cheque requires the seller to provide a proper mailing address, thieves would be less likely to try and sell stolen goods from their establishments. All consignment stores retain a portion of the sale price as their fee for the item using their sales people, advertising and floor space.

Certain owner/operators of consignment stores specializing in the resale of sporting goods claim that the required 35 day property holding period is excessive for their business. The required holding period prevents them from selling their sporting goods on a timely basis and with a turnaround time to match the right season. As a result, this directly impacts their bottom-line. They claim that skates, for instance, are in demand for only a short period of time during the winter season and requiring them to hold onto skates for over 35 days forces some customers to purchase skates quicker elsewhere, likely in an establishment that does not promote environmental sustainability. The required holding period goes against the philosophy of recycling sporting goods in a timely manner.

Furthermore, there is an argument that because persons do not receive their money through consignment stores right away, they would be more likely to deal in stolen property through pawnbrokers or second hand dealers. The VPD does not accept this argument as it is evident through the explosion of stolen property on online auction sites that some criminals are very sophisticated in their property dispersal techniques.

There is still a chance that stolen property can be introduced to the market place through consignment outlets so exemptions for such establishments from certain regulated reporting and holding periods may not be the best solution. The VPD has recovered stolen property from sports consignment stores in the past.

Consultation with Sporting Goods Consignment Stores

With the exception of one establishment, the VPD notes that sporting goods consignment stores in the city are satisfied with the required holding period beyond requesting the offsite storage amendment that was passed by Council in November 2006.

To better understand the consignment industry the VPD conferred with some of the sporting goods consignment stores in the City. A suggested resolution to ensure proper and adequate

amounts of sporting equipment in stock for the appropriate season would be to stagger the intake of sporting goods throughout the year. This would ensure enough sport equipment for the right season. For instance, they could begin to receive winter sports equipment in the late summer and summer sports equipment in the spring.

Some sporting goods consignment stores expressed a concern with the issuance of cheques to the consignor once the property had been sold. Most consignment stores contacted believed that this was an expensive way to do business and would affect their profit margin. They depend on the seller to return to the store for their cash payment, and then spending some of that on other items in the store. A program to issue and track cheques was regarded as more costly and time-consuming. Where other businesses were complying with the bylaw and a customer didn't want to wait the 35 days, then they would work out a straight purchase from the customer and the store would then hold the property for the 35 day period.

The Secondhand Dealers and Pawnbrokers By-Law

The Secondhand Dealers and Pawnbrokers By-Law allows Council to regulate and set conditions on certain classes of businesses. Presently, all consignment stores are included in the Secondhand Dealer license classification. In order to single out such businesses and impose different conditions/regulations on their business practices, consignment stores would need to be removed from the Secondhand Dealer classification and defined as a separate class of business. Therefore, any new regulations would then apply only to consignment stores, including all sporting goods consignment stores.

Staff and the VPD are very concerned about stolen property which is having a huge impact on city residents. There is a concern that relaxation of the reporting and holding requirements would reduce the ability of the VPD to recover and return stolen items. On the other hand, it may not be reasonable to require consignment stores to meet these requirements for inexpensive sporting goods that are difficult to identify.

In light of the above, staff ask that Council give consideration to the creation of a new consignment dealer classification, defined separately from the Secondhand Dealer business classification category. The new consignment dealer category would also be exempted from the 35 day (for electronic reporting)/49 day (for hand-written) holding periods for the sale of sporting good items valued at less than \$100, with the exception of skiing and snowboarding equipment, golf equipment and bicycles. The exemption would also apply to the secondhand dealer reporting requirements. Skiing, snowboarding and golf equipment and bicycles are excluded from these exemptions as these are the sporting good items which are the most likely to be stolen. The reason why the \$100 minimum is recommended is that any sporting good item valued at greater than this amount is more likely to be stolen and possibly recovered.

Furthermore, staff recommend that Council approve the following additional minor amendment:

That Council's resolution of November 30, 2006 to amend the Secondhand Dealers and Pawnbrokers By-Law to add to the By-law "race", among other things, as a physical descriptor be amended by deleting the reference to "race".

As well, staff recommend that Council support an initiative to review and report back on an option to allow the use of a digital photograph to confirm the identity of a seller in addition to picture identification. This option would assist the police with subsequent investigations if necessary.

FINANCIAL IMPLICATIONS

There are no financial implications.

CONCLUSION

This report recommends that Council approve the creation of a new consignment dealer classification, separate from the Secondhand Dealer definition, and that the new consignment dealer category be exempted from the 35 day (for electronic reporting)/49 day (for hand-written) holding periods for the sale of sporting good items valued at less than \$100, with the exception of skiing and snowboarding equipment, golf equipment and bicycles. These sporting goods would also be exempted from the secondhand dealer reporting requirements. It is recommended that skiing, snowboarding and golf equipment and bicycles continue to be included in the secondhand dealer holding and reporting requirements as these are the items which are most likely to be stolen and subsequently recovered and returned to the rightful owner.

Also, staff recommend that Council approve the deletion of the reference to "race" from the list of descriptors used to describe the physical features of a seller and support a review to allow the use of a digital photograph to confirm the identity of a seller in addition to picture identification.

Staff will monitor and review the repercussions of these proposed amendments and if needed, will report back to Council on any issues once the new regulations have been in place for at least a year.

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DRAFT SECONDHAND DEALERS AND PAWNBROKERS BY-LAW AMENDMENTS

1. Define "Consignment Dealer" as a new, distinct business classification, generally along the lines of : means a person who carries on the business of retailing used or secondhand property given to the dealer by a consignor on the basis that the consignor does not receive payment until the dealer has completed the sale of the property, the consignor and dealer agree in advance on the sale price of the property and the percentage of the sale price each is to receive, and, in the absence of a sale, the dealer returns the property to the consignor.
2. Amend Section 2.19 to include an exception stating that the provision does not apply to a consignment dealer who sells a sporting good item for a price of less than \$100.00 for each item or, if the item consists of a pair or set of things, for each such pair or set, with the exception of skiing, snowboarding and golf equipment and bicycles.
3. Amend Section 2.2 to exclude sporting good items sold by a consignment store with a value of less than \$100.00 for each item or, if the item consists of a pair or set of things, for each such pair or set, with the exception of skiing, snowboarding and golf equipment and bicycles.
4. Amend the proposed amending by-law provision that sets out physical descriptors to delete reference to "race".