



ADMINISTRATIVE REPORT

Report Date: May 25, 2011  
Contact: Lucia Cumerlato  
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Meeting Date: June 30, 2011

TO: Standing Committee on City Services and Budgets  
FROM: Chief Licence Inspector  
SUBJECT: 254 East Hastings Street - Rickshaw Enterprises Incorporated  
Liquor Primary Liquor Licence - The Rickshaw

**RECOMMENDATION**

THAT Council, having considered the opinion of area residents and business operators of the community as determined by neighbourhood notifications, site sign, the proximity of residential developments, potential noise impacts and relevant Council policy as outlined in the Administrative Report dated May 25, 2011, entitled "254 East Hastings Street - Rickshaw Enterprises Incorporated, Liquor Primary Liquor Licence - The Rickshaw", endorse the application by Rickshaw Enterprises Incorporated, for a Liquor Primary liquor licence (Liquor Establishment Class 4 - Live Venue) at 254 East Hastings Street (The Rickshaw) subject to:

- i. A maximum capacity of 490 seats (490 including balcony/412 without balcony);
- ii. Hours of operation limited to 11 am to 12 am, Sunday to Thursday and 11 am to 1 am, Friday and Saturday;
- iii. A signed Good Neighbour Agreement prior to business licence issuance committing to making the venue available to non-profit and arts groups a minimum of two days per month;
- iv. Minor amendment to DE 412884 to reflect the conditions of this application;
- v. Acoustic report to be submitted certifying that the establishment meets Noise Control By-law requirements; and
- vi. Liquor service only permitted in conjunction with pre-booked live events.

**GENERAL MANAGER'S COMMENTS**

The General Manager of Community Services RECOMMENDS approval of the foregoing.

### *COUNCIL POLICY*

Council policy requires new Liquor Primary liquor licences to be subject to a Time-Limited Development Permit, Good Neighbour Agreement, and public consultation.

On February 3, 2011, Council received for information an update on the Live Performance Venues Regulatory Review as outlined in the Administrative Report dated January 18, 2011, entitled "Cultural Services Regulatory Review for Live Performance Venues: Phase I".

On May 16, 2006, Council enacted amendments to the Business Premises Regulation of Hours Bylaw that implements the Hours of Liquor Service policy for the city bars into by-law regulation.

On July 14, 2005, Council approved policy and guidelines relating to the size and location for new liquor establishments or for capacity increases to existing liquor establishments.

On November 18, 2004, Council adopted the Hours of Liquor Service Policy that established a new model for regulating hours of liquor service for Liquor Primary establishments, based on an area approach and incorporating a two-tiered licensing system and impact reduction measures.

On March 23, 1993, Council adopted a policy to consider, on a case-by-case basis, requests from non-profit arts organizations seeking Council's endorsement towards obtaining a provincial liquor license without going through the referendum process, based on the results of the preliminary neighbourhood notification.

### *PURPOSE & SUMMARY*

Rickshaw Enterprises Incorporated, located at 254 East Hastings Street, is seeking Council resolution endorsing their application for a 490 total capacity Liquor Primary liquor license (Liquor Establishment - Class 4 - Live Venue) and hours of licensing of 5 pm to 1 am, seven days a week. The standard hours for this area under the policy are 11 am to 12 am, Sunday to Thursday and 11 am to 1 am, Friday and Saturday. The applicant proposes to only serve liquor in conjunction with pre-booked live events such as concerts, theatrical events, dance and individual performances. The applicant is committed to the revitalization and sustainability of the area and its continued support for arts and cultural programs. The applicant is also committed to having the theatre available for non-profit groups at a nominal rent for two days per month.

The endorsement of The Rickshaw would benefit the neighbourhood as it will create a vital, artistic and social gathering venue for like minded professional artists, local bands, and patrons in this community. The theatre will provide a space for all members of this creative community to interact and will be a benefit to the non-profit cultural community. This application also fits in with Council's support for Cultural Services Regulatory Review for Live Performance Venues. Food service will be provided during operating hours which will consist of freshly prepared sandwiches, vegetables and dip as well as a large variety of pre-made and frozen food such as burritos, pasta's, pizzas and other dishes. Staff are recommending support for this application based on reasons outlined in this report.

## ***BACKGROUND***

### ***Site History***

The theatre was built in 1971 by the world famous Shaw brothers, Sir Run Run and Tan Sri Runme Shaw who were at the time, the owners of the largest movie production company in the world. The theatre featured only Chinese language movies, dramas and Kung Fu style action films produced by the Shaw Brothers at their studios in Hong Kong. Centrally located between the neighbourhoods of Strathcona and Chinatown, the "Shaw Theatre" as it was originally named, was the west coast hub for all of the Shaw Brothers' North American business operations and distribution during the studio's head of the 1970s. The theatre itself was the west coast crown in the Shaw Brothers' theatre empire and featured the most modern movie technology of the time including a stunning 10,000 sq ft theatre room, dolby sound and cinema scope screens.

In late 1984, the Shaw Theatre closed its doors due to the lack of business. Between 1984 and 2000, the theatre has operated with different operators. In 2000, the theatre finally closed its doors and has been vacant since then. The applicant has signed a five year lease with the owner of the building, Merlin Theatres Ltd., which commenced on May 15, 2009. The applicant has been operating at this location as a "live theatre" since June 2009 and has been obtaining Special Occasion Liquor licences for events when liquor is served. The Rickshaw is an active community theatre and event space with the goal of promoting affordable, independent local theatre and live performance as well as showcasing alternative artists from around the world. Their mandate is "to operate the Rickshaw Theatre as a full accessible, all inclusive, community oriented, affordable live theatre and live performance arts venue". The Rickshaw is available to community, local and national emerging artists and production companies at very low rates. The applicant states they've had over 50 of these types of events at little or no cost. Since taking over the theatre, the applicant feels they have created and filled a void for all types of alternative performance. The revitalization of the theatre is having a positive impact and represents a very substantial investment into the downtown eastside community.

The applicant, Rickshaw Enterprises Incorporated, have completed minor renovations and upgrades to the theatre. The theatre consists of three levels, the main floor which includes the lobby and the theatre, the mezzanine which includes the washrooms and the balcony. The seating in the venue is fixed seating located on the main floor and balcony. There is also an open "standing" area in front of the stage. There are two service bar areas, one bar is located next to the stage and the other service bar is located in the lobby.

### ***Application***

The applicant is requesting a council resolution endorsing their application for a Liquor Primary licence with hours of licensing between 5 pm to 1 am, seven days a week. The standard hours for this area under the policy are 11 am to 12 am, Sunday to Thursday and 11 am to 1 am, Friday and Saturday. The applicant proposes to only serve liquor in conjunction with pre-booked live events such as concerts, theatrical events, dance and individual performances. The applicant is committed to the revitalization and sustainability of the area and its continued support for arts and cultural programs. The applicant is also committed to having the theatre available for non-profit groups at a nominal rent for two days per month.

The seating in the theatre is fixed seats. The approved occupant load is 412 persons on the main floor and 490 persons if the balcony is being used (refer to Appendix B).

It should be noted that the applicant also operates two food primary establishments in the city.

The endorsement of The Rickshaw would benefit the neighbourhood as it will create a vital, artistic and social gathering venue for like minded professional artists, local bands, and patrons in this community. The theatre will provide a space for all members of this creative community to interact and will be a benefit to the non-profit cultural community. This application also fits in with Council's support for Cultural Services Regulatory Review for Live Performance Venues. Food service will be provided during operating hours which will consist of freshly prepared sandwiches, vegetables and dip as well as a large variety of pre-made and frozen food such as burritos, pasta's, pizzas and other dishes.

#### ***Liquor Control and Licensing Branch (LCLB) Regulations and Policies***

Branch regulations allow liquor service between the hours of 9:00 a.m. to 4:00 a.m. seven days a week for Liquor Primary licences. The liquor licence capacity for a new establishment is based on the building capacity for the premise as determined by the local authority. Any new liquor licence application is subject to local government support. Event driven liquor licenses are associated with "live" events only.

#### ***Area Surrounding Premises***

The subject site is located in the Downtown East Oppenheimer Zoning District. The surrounding area is a mixture of retail, restaurants, social facilities (community associations), hotels, pubs, churches, clinics, residential (non-profit housing), Police station and other commercial uses (refer to Appendix A).

There are two Liquor Establishment Class 2 (243 seats), five Liquor Establishment Class 3 (1195 seats) and two venues (401 seats) within the 800' radius of the subject site (1839 total liquor seats). There are also approximately nine licensed restaurants within the area.

#### ***RESULTS OF NOTIFICATION***

A neighbourhood notification was conducted by circulating 1000 notices in the survey area (See Appendix A) and 20 notices were mailed to appropriate Business Improvement Associations, neighbourhood groups/organizations and stakeholders of the Downtown Eastside. A site sign was erected advising the community of the application and where to send concerns or comments. Staff allowed three weeks for the community to respond with concerns or support for the application.

A total of nine responses were received from mainly non-profit groups, businesses and organizations in the area; six responses were from within the notification area, two were from outside the notification area and one contained no address. The responses consisted of five comments in support and four comments in opposition of the application. One of the respondents opposing the application was from a neighbourhood organization.

A letter of support was also received from the Executive Coordinator of the Hastings Crossing Business Improvement Association supporting the Rickshaw application.

A total of 601 emails of support were also received from patrons who had attended an event, sponsored an event or performed at the Rickshaw. The applicant also provided a link on his website for people to submit comments on the application.

Most respondents in support praised the applicant for their work in the Downtown Eastside and providing a live venue for a wide array of local and visiting talent. Respondents felt that the city has seen several notable longstanding venues demolished and their properties redeveloped to the detriment of the local live entertainment industry and to the dismay of the communities who support it. They also felt the Rickshaw has come to play a valuable role not only in its particular geography but in the city as a whole. They have demonstrated themselves to be responsible and respectful neighbours throughout their tenure on East Hastings Street.

Respondents opposing the application felt that there are enough liquor establishments in the area and have concerns of increased nuisance issues for the community.

## *DISCUSSION*

### *Policy Issues*

The only policy issue which relates to this application is the Council approved liquor policy for Business Premises Regulation of Hours By-law for the area which implements the Hours of Liquor Service for liquor primary establishments. The standard hours for this area under the policy are 11 am to 12 am, Sunday to Thursday and 11 am to 1 am, Friday and Saturday. The applicant has requested a later closing time of 1 am, seven days a week. Staff cannot support the 1 am closing time, Sunday to Thursday, because the Business Premises Hours of Regulation Bylaw does not allow these hours.

There is an existing Council moratorium policy restricting additional seats in the DTES but staff consider this venue as operating as a "theatre" and therefore it is outside the context of the original policy which referred to bars and cabarets.

Staff are generally in support of liquor licenses in theatre type venues. The Queen Elizabeth Theatre, Centre for Performing Arts and Stanley Industrial Alliance Theatre provide liquor service in conjunction with performances. This application differs somewhat from these other venues because liquor service will be provided in the seating area of the theatre. The Vogue Theatre liquor licence allows liquor service in the seating area.

Since opening in June 2009, the applicant has received interest from the performing arts community because of the much needed amenity space in the community for both rehearsal and performance space. The Rickshaw provides their venue to local community groups and non-profit groups free of charge or at a drastically reduced rate. They provide their venue to these groups at least twice a month depending on their schedule. The Rickshaw is a member of the Chinatown Business Improvement Association and has been involved in the creation of the Hastings Corridor Business Improvement Association.

The Rickshaw is an active community theatre and event space with the goal of promoting affordable, independent local theatre and live performance as well as showcasing alternative artists from around the world. The theatre is available to community, local and national emerging artists and production companies at very low rates. Since opening, the applicant feels that they have created and filled a definite void for all types of alternative performance.

Over the last while, the applicant has been applying for "Special Occasion Licenses" through the Liquor Distribution Branch in order to serve liquor for certain events held in this venue. Under a Special Occasion Licence, minors are permitted to attend events with liquor service

which is a concern for Vancouver Police Department and city staff. Under a proper liquor primary liquor licence, minors will not be permitted to attend events unless the applicant de-licenses for the event. There is no enforcement history related to the Rickshaw and it is considered a well run facility. Liquor service has been and will continue to be an additional amenity for the patrons.

The Good Neighbour Agreement and a condition that liquor will only be served in conjunction with pre-booked events will help to ensure minimal impacts on the community.

### ***FINANCIAL IMPLICATIONS***

There are no financial implications.

### ***COMMENTS***

*The Police Department* has reviewed the application and note the following:

The Rickshaw located at 254 East Hastings currently operates utilizing Special Occasion Licenses (SOL) to serve liquor at their events. This was seen a temporary measure as it is not the ideal means of licensing for this venue. The SOL is typically designed to be used for special events like weddings or private parties which are not repeated occurrences. SOL's allow for minors to attend. In order to accommodate this, The Rickshaw uses a wristband system to identify patrons over the age of 19 years.

The SOL is very difficult to enforce since it is only in place for one night. Promoters obtain the licence and are responsible for the operation of the event. A Liquor Primary licence holds the Licensee accountable and requires strict compliance to the Liquor Control and Licensing Terms and Conditions. This type of licence is only in effect when there is a scheduled live act performing. Liquor service can only occur under those circumstances. It is not meant to be utilized for any other type of use, such as a night club or lounge.

The Vancouver Police support the conversion of the Rickshaw to operate with an event driven Liquor Primary License. This will ensure that no minors are present during events and that the Licensee is accountable for complying with the Act and Regulations. The Rickshaw has been operating for approximately 2 years with minimal impact on police and the neighbours. The following conditions are considered:

- Events must be live in nature
- No minors permitted
- The Operator has agreed to supply a schedule of events a month in advance of all bookings
- All Ages Events to be coordinated with the Liquor Coordinator and the City Licensing Department

*The Vancouver Fire Department* has reviewed the application and note that the approved occupant load is 490 persons (490 including balcony/412 without balcony).

*The Central Area Planning Department* has reviewed this application and are in support of this application, based on the fact that it is an existing theatre, they are currently operating with recurring Special Occasion Licenses (which is problematic for VPD as minors can attend events with liquor service), and the licence - if issued - will be events based (by invite or

ticket purchase only). This LP would also not be changeable to cabaret use or moved off-site for cabaret or similar uses. In addition, we understand that the Rickshaw has a time-limited development permit which enables ongoing monitoring of the establishment.

*The Development Services Department* has reviewed this application and advises the site is zoned DEOD. Development Permit number DE 412884 was issued February 1, 2010, for:

"Interior alterations to this existing Theatre to provide a stage and to change the use to "similar to a theatre" to allow for a rehearsal studio, live theatre and live music, including the letter of operation dated January 26, 2010, from David Duprey, and stamped "Received" by this department on January 26, 2010, and including the Acoustical Report from BKL Consultants dated September 3, 2009, for a limited period of time expiring on January 26, 2011, unless extended in writing by the Director of Planning."

An application to extend this use for a further period of time was granted to January 26, 2012. Should Council support this Liquor License application, a Minor Amendment to the approved Development Permit would be required to reflect any conditions imposed by Council.

*The Social Development Department* has reviewed this application and has no comments.

**Comments to Satisfy LCLB Resolution Requirements:**

**Location:** as noted previously.

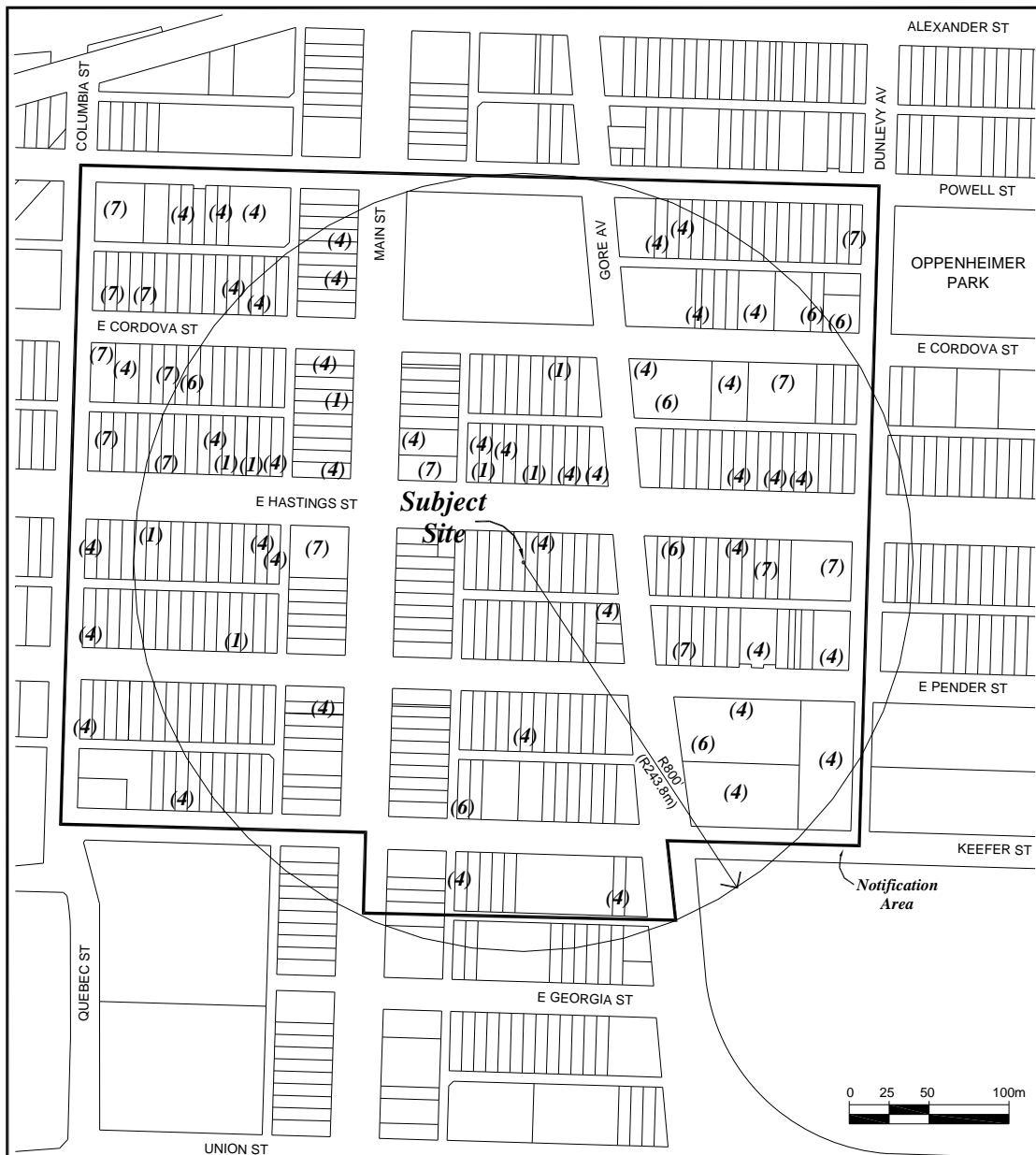
**Person capacity and hours of operation:** as outlined above.

**Market Analysis:** The City of Vancouver has no authority to regulate an operator's clientele/target market. As a result, commenting or basing a decision on Market Analysis is an unproductive use of staff time.

**Traffic, noise, parking and zoning:** Staff have considered traffic, noise, parking and zoning matters and have no concerns at this time. These matters will be considered further as part of the Development Permit process.

***CONCLUSION***

Staff recommend Council endorse the applicant's request for a Liquor Primary liquor licence for their live venue theatre, subject to the limiting conditions. Staff experience generally shows that liquor service in these venues is an amenity for patrons and not the primary focus of the business. Staff feel it is much more preferable to have this building continue to function as a live venue theatre with the proper type of liquor licence. Clearly, the liquor licence is needed to provide revenue to support retaining the theatre function of the building. The Rickshaws commitment to supporting arts and cultural programs and non-profit groups is of benefit along with providing their venue to local community groups and non-profit groups free of charge or at a reduced rate. The Rickshaw is an important cultural venue in the city and we welcome and encourage its preservation and ongoing cultural use.



**LEGEND**

- (1) Cabarets, Neighbourhood Pubs & Hotels with Pubs/Lounges - {New Brandiz Pub}, {Fortune Sound Club}, {Balmoral Pub}, {Regent Hotel Pub}, {Empress Hotel & Pub}, {Savoy Hotel Pub}, {Firehall Theatre Society}, {District 319}, {Patricia Hotel}
- (2) Government or Private Liquor Stores - {N/A}
- (3) Parks
- (4) Social Housing/ Residential Buildings
- (5) Schools - {N/A}
- (6) Churches
- (7) Other Social facilities (clinics, rehabs, hospitals, etc)

LIQUOR PRIMARY (LIQUOR ESTABLISHMENT CLASS 4) 254 East Hastings Street	map: 1 of 1	
<b>City of Vancouver - Licenses &amp; Inspections</b>	date: 2011-04-27	



REVIEWED AND ACCEPTED  
PURSUANT TO  
THE B.C. FIRE SERVICES ACT  
AND THE FIRE SERVICES BY-LAW  
MAY 09 2011  
Per [Signature]  
THE FIRE DEPARTMENT

MAXIMUM OCCUPANT LOAD

- 1) LICENSED BEVERAGE ESTABLISHMENTS 412 PERSONS NO BALCONY IN USE
- 2) DINING AND CAFETERIA SPACE
- 3) NON FIXED SEATS AND TABLES
- 4) NON FIXED SEATS
- 5) STANDING SPACE
- 6) OTHER USES

MAXIMUM OCCUPANT LOAD

- 1) LICENSED BEVERAGE ESTABLISHMENTS 490 PERSONS BALCONY IN USE
- 2) DINING AND CAFETERIA SPACE
- 3) NON FIXED SEATS AND TABLES
- 4) NON FIXED SEATS
- 5) STANDING SPACE
- 6) OTHER USES

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