



City of Richmond

Report to Council

To: Richmond City Council **Date:** February 15, 2006
From: Anne Stevens **File:** 12-8275-06/2006-Vol 01
Chief Licensing Inspector
Re: **Freehold Enterprises Canada Ltd. dba Barcode Karaoke Restaurant**
Suspension

Staff Recommendation

That Council suspend the business licence of Freehold Enterprises Ltd. doing business as Barcode Karaoke Restaurant, operating from premises located at Unit #1028 – 8300 Capstan Way, Richmond B.C. for the period of 14 days commencing March 20, 2006 to April 2, 2006, both dates inclusive.

Anne Stevens
Chief Licensing Inspector
(4273)

Att. 1

FOR ORIGINATING DIVISION USE ONLY		
CONCURRENCE OF GENERAL MANAGER (A. J.) 		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>
REVIEWED BY CAO	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

Staff Report

Origin

The City of Richmond continues to enforce its Business Licence bylaws and Public Health Protection bylaws. This enforcement is part of our continuous effort to promote community, customer and employee safety and to ensure that all businesses are operating in a consistent manner so as to prevent one business gaining an operational advantage over another business in the same business category.

This report will deal with Freehold Enterprises Canada Ltd. dba Barcode Karaoke Restaurant operating from premises located at Unit 1028 - 8300 Capstan Way, Richmond, B.C.

Finding of Facts

On February 1, 2006 a show cause hearing was called for Freehold Enterprises Canada Ltd dba Barcode Karaoke Restaurant. Prior to the hearing the lawyer, acting on behalf of the licensee, requested an extension until February 8th, 2006. The extension was granted to allow legal counsel an opportunity to meet with his client.

On February 3rd, 2006 legal counsel for Barcode Karaoke Restaurant spoke to the Licensing Inspector stating that they would not be attending the hearing and that the attached letter was acceptance of his client's culpability and expression of remorse. (Attachment 1).

Barcode Karaoke Restaurant has been licensed as Assembly Use Group 1, Food Service Establishment with a Food Primary Liquor Licence since May of 2004.

Throughout this term this establishment has been found in violation of City bylaws and Provincial Liquor Licencing regulations.

The following table outlines for Council the dates and the infractions incurred by Barcode Karaoke Restaurant through 2004 to 2005. A detailed summary and pictures are attached. (Attachment 2)

DATE	INFRACTION	SPECIFICS
October 30, 2004	Violation of Public Health Protection Bylaw 6989	Patrons found smoking inside premises.
September 23, 2005	Violation of Public Health Protection Bylaw 6989	Operator permitting smoking.
October 15, 2005	Violation of Public Health Protection Bylaw 6989	Patrons found smoking inside premises.
October 18, 2005		Warning letter was given to owners for continuing to allow patrons to smoke
December 18, 2005	Violation of Public Health Protection Bylaw 6989	Patrons found smoking inside premises.

A Food Primary liquor license is granted under the regulations of the Provincial Liquor Control & Licensing Branch. Based on the Provincial Licence, the City licence is granted as a Assembly Use Group 1, Food Service Establishment with a Food Primary Liquor Licence. Establishments that have been granted a Liquor Primary licence by the Provincial Liquor Control & Licensing are granted a City licence under the Assembly Use Group 2 classification.

Barcode Karaoke Restaurant, through inspections, have been found to be operating as a Liquor Primary establishment but do not hold a valid Assembly Use, Group 2 Licence issued by the City; have failed to maintain the standard of qualification required for the issuance of a licence under the City of Richmond's Business Licence Bylaw and have contravened the Public Health and Protection Bylaw.

For these reasons, it is recommended that the licence of Barcode Karaoke Restaurant be suspended.

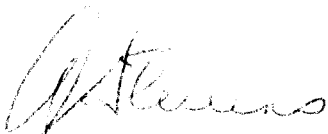
Barcode Karaoke Restaurant is also before the Liquor Control and Licensing Branch for operating contrary to their primary purpose, which is Food Primary. Their hearing was scheduled for February 6, 2006.

Financial Impact

None

Conclusion

Barcode Karaoke Restaurant have ignored the City's Business Licence Bylaw and Public Health Protection Bylaw and have continued despite the issuance of Municipal Tickets and a letter of warning, and as such, their non compliance warrants a suspension of 14 days that should be enforced from March 20, 2006 through April 2, 2006 both dates inclusive.



Anne Stevens
Chief Licensing Inspector
(4273)

AS2:as2

ATTACHMENT 1

Rec'd

FEB 3, 06

(D)



800 - 1070 Douglas Street
 Victoria, British Columbia
 V8W 2S8
 Ph: 250-388-5421
 Fax: 250-388-4294

FAX TRANSMISSION COVER SHEET

YOU SHOULD RECEIVE **3** PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (250) 388-5421

Date: February 3, 2006
 To: City of Richmond
 Attention: Victor Duarte
 Fax: (604) 276-4157
 Our File No.: 99446/001
 Sender: J. David Houston / Breena

Confidentiality Warning: The comments contained hereon and the documents accompanying this transmission contain confidential and privileged information intended only for the person(s) to who it is directed above. All other recipients are prohibited from disclosing, copying, distributing or acting in reliance on the contents. If you have received this facsimile in error, please notify us immediately by telephone (collect if not a local call) and return the original to us by regular mail. Thank you.

CREASE HARMAN & COMPANY*Barristers & Solicitors*R. LOU-POY, Q.C.
G.C. WHITMAN
A.R. TRYON
R.B.E. HALLSORP.W. KLASSEN
J.E.D. SAVAGE
K.A. WOODS
M.A. MCGREGOR
R.S. SOUSAR.T. TAYLOR
R.L. SPOONER
J.D. HOUSTON
M.J. WATSON800-1070 DOUGLAS STREET
PO BOX 997
VICTORIA, B.C. CANADA
V8W 2S8TELEPHONE: (250) 388-5421
FAX: (250) 388-7833PLEASE REPLY ATTENTION OF: J. David Houston
E-MAIL: jdhouston@creaseharman.com
OUR FILE: 99446/001

Via fax 1-604-276-4157

Friday, 03 February 2006

City of Richmond
Finance Department
Business License Division
6911 No 3 Road
Richmond, B.C.

Attention: Mr. Victor Duarte – Business License Inspector

Dear Sir:

**Re: Freehold Enterprises Canada Ltd dba Barcode Karaoke Restaurant
Violation of the Public Health Protection Bylaw No. 6989.**

The writer acts for Freehold Enterprises Canada Ltd (the Licensee) and as such has been provided with a copy of your letter of October 18, 2005 with enclosures detailing the various allegations of breaches of the above-noted bylaw. Firstly, thank you for the week extension to review this letter as it has allowed me to canvass the matter fully with my client before the February 8, 2006 hearing.

We are advised that the allegations as contained in the attachments to your October 18, 2005 as they pertain to the City of Richmond's bylaw are accurate in that the Licensee was permitting smoking as alleged. My client has asked me to pass on to you their apologies for their behaviour and to let you know that they are prepared to accept the consequences of their actions without the need for a hearing unless the City wishes to hold one.

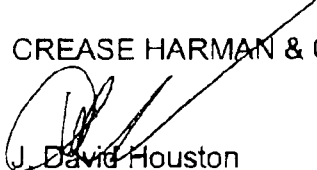
My clients have been advised that any further contraventions of this, or any other City of Richmond Bylaw, will most certainly lead to further actions by the City including a cancellation of their license as opposed to a suspension. They recognize the gravity of the situation and will take the necessary to ensure compliance in the future.

In closing, please accept this letter as both my client's acceptance of culpability and expression of remorse.

Should you have any questions or wish to discuss the matter further with the writer, please feel free to contact me.

Yours very truly,

CREASE HARMAN & COMPANY


J. David Houston

Show Cause Hearing

INFORMATION:

Business: Freehold Enterprises Canada Ltd. dba: Barcode Karaoke Restaurant

Address: Unit # 1028-8300 Capstan Way

Ref. File #: 03232535

Hearing Date: Wednesday, February 1, 2006

Time: 2:00 p.m.

Location: Room T.2.121, Richmond City Hall, 6911 No. 3 Road, Richmond, BC

HISTORY

Freehold Enterprises Canada Ltd. dba: Barcode Karaoke Restaurant has been licenced under the current seven principal owners, since May of 2004. Since this period, Barcode Karaoke Restaurant has received 4 Municipal Ticket Informations for operator permitting smoking.

Ongoing inspections conducted at **Freehold Enterprises Canada Ltd. dba: Barcode Karaoke Restaurant**, operating at 8300 Capstan Way – Unit # 1028 by the Joint Inspection Team, comprised of RCMP Members, Liquor Inspectors and the undersigned, have established that this business is continuously operating in contravention of Municipal Bylaws as well as Provincial Regulations.

Inspection conducted at this premise on October 30, 2004 found this location operating in contravention of four separate sections of the Liquor Control and Licensing Branch Regulations and thereby operating in contravention of the Business Licence Bylaw as well as Public Health Protection Bylaw. A Municipal Ticket Information was issued for operator permitting smoking.

An inspection conducted at this location on September 23, 2005 by Liquor Inspector Doug Dyck determined that Barcode Karaoke Restaurant was openly permitting smoking inside premise. Liquor Inspector Doug Dyck counted 12 patrons smoking cigarettes in clear view of staff and owner. Information was forwarded to the undersigned and a Municipal Ticket Information was served on business for operator permitting smoking, under the Public Health Protection Bylaw.

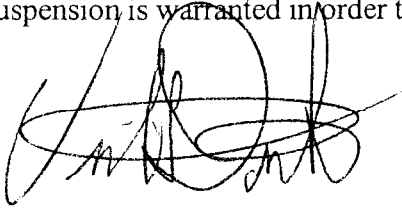
Again on October 15, 2005 the undersigned, while conducting a joint inspection, found this business in contravention of Liquor Control and Licensing Branch Regulations and thereby violating the Business Licence Bylaw as well five individuals noted smoking inside premise, causing a violation of the Public Health Protection Bylaw. When inspection team entered premise, staff made a quick dash into Karaoke rooms to have patrons put out cigarettes. A Municipal Ticket Information was issued to business for operator permitting smoking under the Public Health Protection Bylaw.

A warning letter dated October 18, 2005 was mailed to the business by the undersigned informing that continuation of violations could result in hearing before the Chief Licence Inspector, whereby, a recommendation to City Council could be made to suspend or cancel Business Licence.

On December 18, 2005 another inspection conducted at the noted business determined business found in contravention of Liquor Control and Licensing Branch Regulations and thereby violating the Business Licence Bylaw as well as patrons still permitted to smoke inside premise. A Municipal Ticket Information issued to business for operator permitting smoking under the Public Health Protection Bylaw.

It is apparent that this business has no desire to operate within the guidelines of a Food Primary liquor establishment, as inspections determine this business continues to operate outside of class, as a Liquor Primary liquor establishment.

This business is licenced as an Assembly Use Group 1, Food Primary, Restaurant by the City of Richmond and does not hold a Assembly Use Group 2, licence for a Liquor Primary establishment, therefore operating without a business licence as a Group 2. In addition, business has failed to maintain the standards of qualification required for the issuance of their current Assembly Use Group 1, licence, section 5.1(d), of the Business Licence Bylaw and finally, business continues to permit smoking inside premise. This continuous disregard of Provincial Regulations and City of Richmond Bylaws, leads the undersigned to believe a Suspension is warranted in order to correct the continuation of these offences.

A handwritten signature in black ink, appearing to read 'Victor M Duarte', written over a horizontal line.

Victor M Duarte
Business Licence Inspector

Barcode Karaoke Restaurant

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



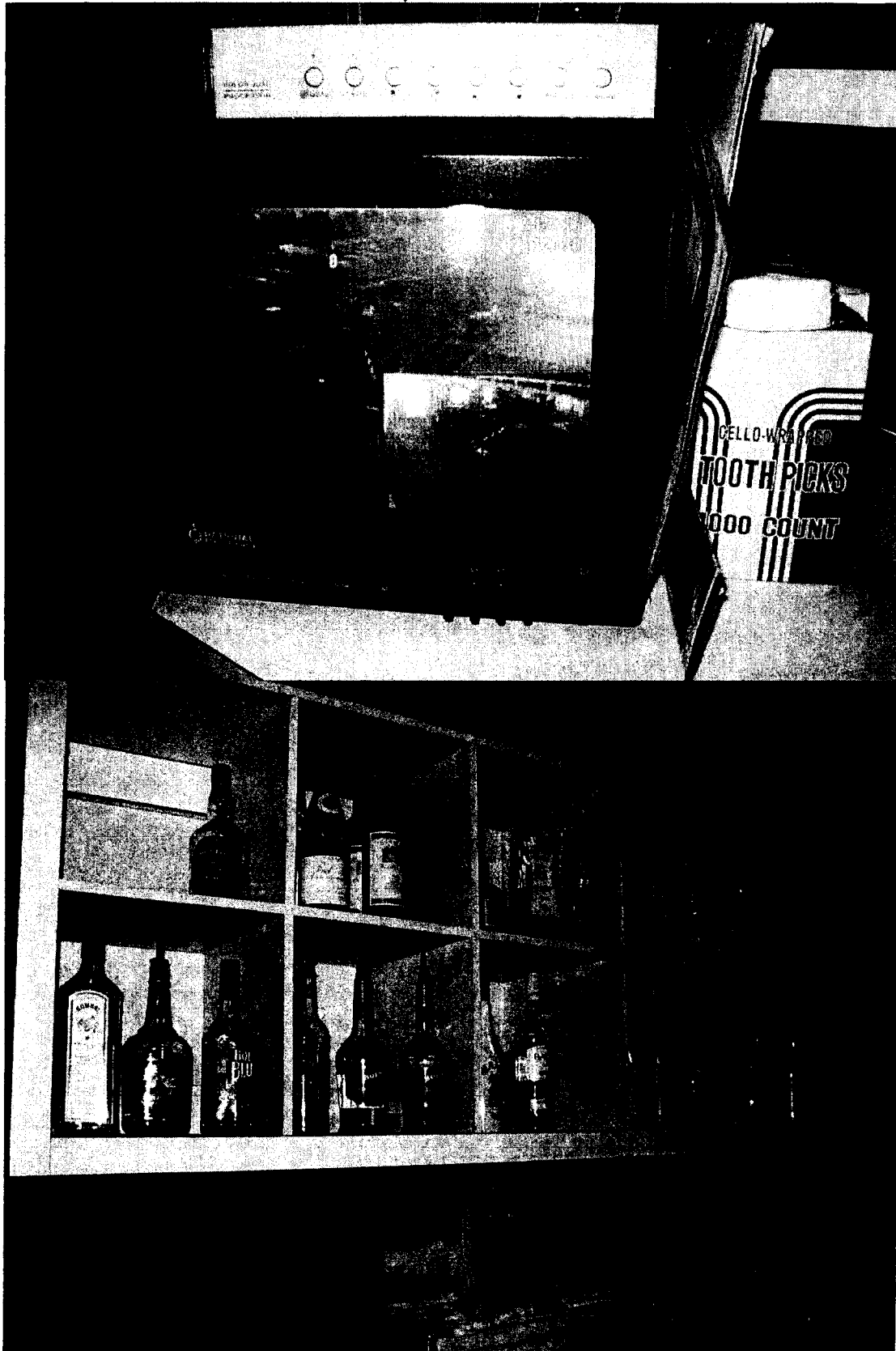
Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005



Barcode Karaoke Restaurant-Cont.

Photos taken by V Duarte on Dec. 18, 2005





City of Richmond

6911 No. 3 Road, Richmond, BC V6Y 2C1
Telephone (604) 276-4000
www.city.richmond.bc.ca

March 06, 2006
File: 05 299711

Finance Department
Business Licence Division
Telephone: 604-276-4328
Fax: 604-276-4157

Delivered via fax: 1-250-388-7833

BARCODE KARAOKE RESTAURANT
8300 CAPSTAN WAY UNIT 1028
RICHMOND, B.C.
V6X 4B7

Dear Business:

**Re: Barcode Karaoke Restaurant
Business Licence Review Hearing**

This correspondence will serve as official follow-up to your business licence review. You voluntarily agreed with the allegations and agreed to accept the consequences for your actions without a hearing. I took into consideration the evidence provided to me by Mr. Duarte, Licence Inspector and representative for the City of Richmond. I have also taken into consideration the correspondence received from your solicitor where you recognize the gravity of the situation and are taking ownership of the issues to prevent further violations in the future.

The findings clearly indicate that your business was operating in contravention of the City of Richmond's Business Licence, Business Regulation and Public Health Protection Bylaws.

I will therefore be recommending to Richmond City Council that your business licence be suspended from March 20, 2006 through April 2, 2006 both dates inclusive, which is a total of 14 days.

This recommendation, will be dealt with by Richmond City Council at their meeting of Monday, February 13, 2006. This meeting will commence at 7:00 p.m. sharp and you have the right to appear before Council to debate the recommendation and to present your case as to why the recommendation should not be supported. Should you wish to attend the meeting to present your case, please contact Mr. David Weber, the City Clerk, at 604-276-4098, and he will ensure you are added to the Council agenda as a delegation.

If you have any questions regarding this recommendation, or the process relating to the Council meeting, please feel free to contact the undersigned at 604-276-4273.


RICHMOND
Island City, by Nature

Yours truly,

A handwritten signature in black ink, appearing to read "A Stevens". The signature is fluid and cursive, with the first letter "A" being particularly large and stylized.

Anne Stevens
Chief Licence Inspector
Manager, Customer Service

AS2:vmd

pc: V. Duarte
D. Weber
D. Dyck – LCLB, Liquor Inspector