



## City of Richmond

## Report to Council

**To:** Richmond City Council  
**From:** Anne Stevens  
Chief Licence Inspector  
**Re:** Huggymear Canada Enterprises Ltd dba Three Thirty Cafe

*To Council - Jul 24, 2006*

**Date:** July 4, 2006

**File:** 12-8275-06

### Staff Recommendation

That Council suspend the business licence of Huggymear Canada Enterprises Ltd doing business as Three Thirty Café, operating from premises located at Unit #1101 - 3779 Sexsmith Road, Richmond B.C. for a period of thirty days commencing July 29, 2006 to August 27, 2006 both dates inclusive.

Anne Stevens  
Chief Licence Inspector  
(4273)

Att. 3

FOR ORIGINATING DEPARTMENT USE ONLY					
<b>ROUTED TO:</b>	<b>CONCURRENCE</b>	<b>CONCURRENCE OF GENERAL MANAGER</b>			
Business Licences.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>				
RCMP .....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>				
Law .....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>				
<b>REVIEWED BY TAG</b>	YES <input checked="" type="checkbox"/> GJ	NO <input type="checkbox"/>	<b>REVIEWED BY CAO</b>	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>

## **Staff Report**

### **Origin**

The City continues to enforce its Business Licence bylaws and Public Health Protection bylaws with an emphasis on the operating hours and permissive functions within the business complex. These efforts for enforcement are part of our ongoing efforts to promote customer, community and employee safety and to ensure that all businesses are operating in a consistent manner so as to not prevent one business gaining an operational advantage over another business in the same business category.

Various regulatory, protection services, health and federal agencies have worked together to ensure that business activities are operating within the various legislative parameters as established by these various agencies with an emphasis on the operating hours and permissive functions within the business complex.

### **Findings Of Fact**

On June 29, 2006 a show cause hearing was conducted for Huggymur Canada Enterprises Ltd. doing business as Three Thirty Cafe at Unit 1101 – 3779 Sexsmith Road (Continental Centre). This business is conducted on two floors within this unit.

Present at the hearing were:

Mark To - principal owner of Three Thirty Café

Yvonne Hsu – Counsel for Three Thirty Café

Lee Murphy – Liquor Control and Licensing Branch (LCLB) – Regional Manager

Stephen Barron – Inspector LCLB

Amarjeet Rattan – Manager Business Licenses

Vic Duarte - Inspector for City of Richmond

The original show cause hearing was called for June 20, 2006 and postponed to June 29, 2006 at the request of Yvonne Hsu, Legal Counsel for Three Thirty Café.

Mr. Duarte began the hearing with the reading of his statement outlining the history of the business. (Attachment 1) The legal name of the business is Huggymur Enterprises Canada Ltd, which does business as Three Thirty Café. Three Thirty Café is a restaurant with a food primary liquor licence. Liquor (establishment with liquor) service is permitted until 2:00 a.m. The business has until 2:30 a.m. to clear all liquor from the tables.

At approximately 3:12 a.m. on June 11, 2006, four inspectors of the Liquor Control and Licensing Branch enter the premises to do a routine inspection.

At this point in the hearing Mr. Barron, inspector for LCLB, gave a first hand account of the night of June 11, 2006. (Attachment 2)

Mr Barron's submission goes as follows:

On June 11, 2006 four representatives of LCLB entered the parking lot of the Continental Centre at approximately 3:12 a.m. They noticed a number of cars in the lot and several people leaving. Upon entering Three Thirty Café there were several glasses on the tables as well as cans of beer, which were cool to the touch and nearly full. Ms. Ayers of the LCLB proceeded to the second floor of the establishment followed by Mr. Barron who in turn was followed by Ms. Lohoda. Mr. Dyke remained down stairs speaking to the owner Mr. To telling him to 'call the police' and then he proceeded up the stairs.

Mr. Barron noted approximately 26 people in the upper level and liquor on the tables. When the patrons heard Mr. Dyke's statement 'call the police' the patrons began kicking beer cans and throwing a chair towards the representative of the LCLB. All four representatives quickly began going back down the stairs to get to their car. In the midst of this Mr. Barron called 911.

They were being chased by a number of patrons and by the time they had arrived at their car one patron hit Mr. Dyke on the side of his head and another yelled 'just stab him'. A second patron hit Mr. Dyke across the wrist.

Mr. Dyke and Mr. Barron ran for their safety. The female representatives were not being approached by the patrons. Mr. Barron was attempting to speak to 911. Mr. Barron and Mr. Dyke managed to outrun their pursuers and find refuge near a building on the north side of Cambie Rd.

Once the police arrived and took their statement Mr. Barron took the two female staff to their car and Mr. Dyke to the hospital where it was determined he had suffered a broken wrist and a concussion.

Mr. Murphy of the LCLB stated that Mr. Dyke has been off work for the past two weeks recuperating from the assault and that critical incident counsellors have been brought in for all four inspectors to deal with this traumatic occurrence. To Mr. Murphy's recollection nothing like this has happened in the LCLB's history. The LCLB will be dealing with the contraventions.

At this point of the hearing, Mr. Duarte read a statement submitted by email from Mr. Dyke, which was typed by Mr. Dyke's wife. (Attachment 3)

On June 14, 2006 Mr. Duarte advises that he checked the business license of Three Thirty Café noting that the licence was renewed in January 2006. Mr. Duarte noted that the Licence records indicated a different owner and upon inspection learned that Mr. To, the present owner, had purchased the business in March 2006 and had neglected to inform the city of the change of ownership. This is in violation of the Business Licence Bylaw No.7360, section 4.3.2. Upon transfer of ownership 3:30 Café was also required to obtain a Health Permit under the Health Act, Food Premises Regulation 210/99. None of this occurred until Mr. Duarte attended the establishment on June 14, 2006.

Mr Barron also served a contravention notice on June 14,2006 for failure to clear liquor after service hours, operate contrary to public interest and disorderly/violent/riotous conduct.

Ms. Hsu, Counsel for Three Thirty Café then gave her submission, stating that it was an unfortunate event. The owner Mr. To thought the problem would go away if he left the patrons alone. He has been told by the LCLB to leave the door open should an inspection be required. Mr. To was not sure where the alcohol came from, as he did not serve them nor did his staff.

Mr. To was asked why he did not call 911 when the 20 –30 people came to his establishment when it was to be closed. He did not have a response to this except that he did not serve them alcohol.

Mr. To stated, to help mitigate a similar occurrence that he has voluntarily shortened his business hours to close at 9 p.m. He also has thought of cancelling his liquor licence but when asked if he has contacted the LCLB to do so, he responded 'no'. It is noted that on July 6,2006 Mr To went to the office of LCLB and cancelled his liquor licence.

Ms. Hsu stated that this was Mr. To's only source of income and a suspension would cause much hardship.

On July 6<sup>th</sup>, the Chief Licensing Inspector spoke to Mr To's attorney regarding what is being done to mitigate the problems. Mr To's lawyer agreed to contact their client and send written confirmation to the City outlining what processes are being put into places to ensure this does not happen again. (Attachment 4)

### **Financial Impact**

None

### **Conclusion**


As a result of the hearing it was concluded that Mr. To as the owner/operator failed in his obligation to ensure that the laws and regulations of the City and any other laws or statutes are adhered to and to ensure that his establishment is run in a peaceful and law abiding manner. His own admission was "that if he did nothing that the problem would go away". Further, Mr. To as the operator of a licensed establishment has a duty to ensure that his patrons are not guilty of unlawful conduct or misconduct. In this circumstance, Mr. To did not attempt to deal with the patrons by calling the police prior to the LCLB attending the premises and when he was told by the LCLB at 3:15 a.m. to call the police he did. There is a record of this call and Mr. Barron's call to 911.

Staff feel that the business was in violation of Section 22.1(b) of The Business Regulation Bylaw 7538. The section in part states..."Any licensee, operator or any other person who: (b) fails to comply with any of the provisions of this or any other bylaw or applicable statute is deemed to

have committed an infraction of, or an offence against, this bylaw or the Business Licence Bylaw, whichever is applicable, and is liable on summary conviction, to the penalties provided for in the *Offence Act*, and each day that such violation is caused or allowed to continue constitutes a separate offence and may result in the suspension or cancellation of the licences”

Council has the discretion and latitude in dealing with the suspension or cancellation of a business licences in the City of Richmond.

Although Mr To has voluntarily changed his business hours operating until nine p.m. and also has signed a waiver relinquishing his liquor licence permanently, staff are recommending that the business licence of Huggymur Enterprises Canada Ltd dba as Three Thirty Café be suspended for a period of thirty days commencing July 29,2006 through to August 27,2006 both dates inclusive, due to the total disregard for City Bylaws, Health regulations and Liquor Branch regulations along with lack of action of Mr To prior to the LCLB attending.



Anne Stevens  
Chief Licence Inspector  
(4273)

AS2:as2

## Show Cause Hearing

### INFORMATION:

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**Business:** Huggymear Canada Enterprises Ltd., dba: Three Thirty Cafe

**Address:** Unit # 1101-3779 Sexsmith Road, Richmond, BC V6X 3Z9

**Ref. File #:** 98141577

**Hearing Date:** Thursday, June 29, 2006

**Time:** 16:00 Hrs.

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

### History:

**Huggymear Canada Enterprises Ltd** doing business as, and here in after referred to as, **Three Thirty Cafe**, has been operating in the City of Richmond, under the ownership of Mark Wai Hung TO, since March 1 of 2006.

BC Corporate search has shown, the last annual report filed by this company on March 1, 2006, indicates that Mark Wai Hung TO is the sole director of this Company, operating as **Three Thirty Café** in the City of Richmond.

### Current Information:

The Liquor Control and Licensing Branch Inspectors on June 11, 2006, at approximately 3:00 a.m., entered **Three Thirty Café**. In the execution of their duties, the LCLB Inspectors were prevented from completing and performing their duties. LCLB Inspectors, were forced to evacuate **Three Thirty Cafe** as commencement of assault by patrons occurred. This assault continued outside the premise, by the same patrons, leading to the injuries sustained by LCLB Inspector, Doug DYCK.

On June 14, 2006, the City of Richmond records were checked and showed that the licence for **Three Thirty Café**, was issued to licensee, Andy CHIANG. It was at this time when Licence Inspector for the City of Richmond, Victor DUARTE, attended at business premise for **Three Thirty Café** and spoke with TO who indicated he purchased this business in March, 2006. Mark Wai Hung TO was informed at this time to transfer licence immediately as required, as he was operating in violation of City Bylaws.

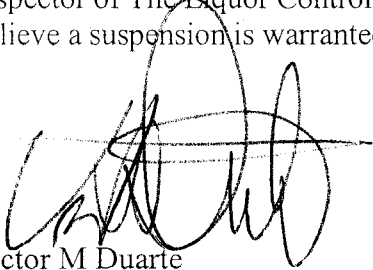
By obtaining business without notifying the City of Richmond, This business was operating without a business licence, as licence was issued to licensee, Andy CHIANG. Under the Business Licence Bylaw No. 7360, section 4.3.2, "Any **person** who purchases the interest or part interest of a **licencee**, and who operates a **business** without first having obtained either the transfer of a **licence** or a new **licence** for that business, is in violation of this bylaw."

**Three Thirty Café** is a food primary establishment, with liquor permitted until 2:00 a.m., with the emphasis on food service. This business has until 2:30 a.m., a half hour, to clear all liquor from the tables. Upon entry of this establishment, at 3:00 a.m., a half hour after, all liquor should have been cleared by **Three Thirty Café**, Liquor Inspectors found liquor still on tables in the lower portion of this premise and a significant amount of liquor being consumed by patrons on the second floor of this establishment.

By violating the Liquor Control and Licensing Branch Regulations, **Three Thirty Café** has also violated the Business Licence Bylaw No. 7360 and Business Regulation Bylaw No. 7538, whereby failing to comply with any provisions of any bylaw or applicable statute, is a violation of the Business Licence Bylaw No. 7360, section 5.1 and Business Regulation Bylaw No. 7538, section 22.1.

**Three Thirty Café** also neglected to apply and obtain a Health Permit which is a requirement under the Health Act, Food Premises Regulation, BC Reg 210/99, thereby, failing to maintain the standard of qualification required for the issuance of the Business Licence, Section 5.1 of the Business Licence bylaw No. 7360.

**Three Thirty café** has shown negligible disregard for City of Richmond Bylaws, Provincial Health Act Regulations and Provincial Liquor Act Regulations. This lack of care and control on the part of the management of this establishment was the direct result of an assault on an Inspector of The Liquor Control and Licensing Branch. This 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', is written over a horizontal line.

Victor M Duarte  
Business Licence Inspector

VMD:vmd

## ATTACHMENT 2

**Barron, Stephen SG:EX**

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**From:** Barron, Stephen SG:EX  
**Sent:** Friday, June 16, 2006 2:00 PM  
**To:** Murphy, Lee I SG:EX  
**Subject:** Incident Summary

Lee,

Per your request:

C&E Officers Stephen Barron, Doug Dyck and Heather Lahoda conducted a routine inspection of 3:30 Cafe in Richmond in the earlier hours of Sunday, June 11, 2006. A/DGm Karen Ayers was also present.

We arrived in the parking lot of the Continental Centre where the establishment is located (Sexsmith and Cambie Road) at approximately 0312 hrs and entered the establishment.

I noted the following:

- several vehicles in the parking lot in the area near the restaurant
- several people leaving the restaurant
- several glasses of beer still on the tables as well as a nearly full can of Coors Lite which was cool to the touch.
- Staff were taking the glasses away when I entered
- Doug began talking with the licensee who was on site
- I noticed Karen walking towards the rear of the restaurant and starting to walk up the stairs to the upper mezzanine area by herself; I followed behind her. Heather arrived behind me a short while later
- In the upper area I counted approximately 26 people and noted that there was liquor on the table.
- I stood there to make observations and did not interact with the patrons
- I heard Doug coming up the stairs stating to the manager "...well maybe you should call the cops then"...
- As Doug heard this, I noted one of the males stand up and kick a can of beer towards me saying "you call the cops motherf---" and he then threw a chair towards me
- I backed down the stairs and began to run while I heard glass breaking behind me.. I began to dial 9-1-1
- I noted Doug at the entrance with the door open, asking me "where is Karen"?
- I noted Karen walking down the stairs, and Doug telling her "let's go"
- We ran out to the car and I noted approximately 5-6 males running out of the restaurant
- As Doug was trying to get the car open, one of the males struck him on the side of the head and the others began kicking and punching him as he tried to avoid them - they were yelling and screaming however I don't recall what they were saying
- They ran after him and me as we ran away towards Cambie road
- I continued to try to talk to 911 and yelled out "The police are on their way"
- we outran the males and took refuge near a children's playground near a building on the N. side of Cambie Road.
- We continued to talk to 911 and saw two police cruisers go towards Cambie and Sexsmith

6/29/2006



- Doug talked on the phone and established that the police were there and we made our way back to the parking lot where the establishment was.
- I gave a verbal statement to Constable Sebastien Doherty as did Doug
- I drove Heather back to her vehicle at the hotel and ensured that Karen got into the hotel
- I took Doug to Richmond Hospital and then drove him home after he was treated.

Let me know if you need any further details ... if I have them I will provide them.

Stephen Barron  
Compliance and Enforcement Officer  
*Liquor Control and Licensing Branch*  
604-775-0093 Office  
604-775-0044 fax  
604-219-7780 cellular  
Web: <http://www.pssg.gov.bc.ca/lclb>


Submitted by Stephen Barron 06 June 29.  


**Details of the Inspection conducted at the 3:30 Restaurant on  
June 11, 2006 at approx. 03:30am.**

While working as a C&E officer for the Liquor Control & Licensing branch, I was conducting a routine inspection of the 3:30 Restaurant at Sexsmith and Cambie in Richmond, BC. I was accompanied by C&E officers Steve Barron, Heather Lahota and Deputy General Manager Karen Ayers.

We entered the premise observing patrons on the main floor departing quickly with the owner Mark To present. We were told by Mark To "they were upstairs". Karen Ayers then preceded to the upstairs area, ahead of Lahota, Barron & while I was speaking to the owner who informed me that there was approx. 30 people upstairs and they would not leave and there was nothing he could do. To also said that he thought about calling police. Once Barron had noticed Ayers going up stairs, he immediately followed along with Lahota. I then told To to call the police and proceeded up the stairs. Immediately after we were up stairs, we observed approximately 30 people with many of them displaying a belligerent and violent demeanor at our presence. They seemed to be aware that we were there to discontinue liquor service as the premise license ends at 2:00 am and I believe they heard me downstairs say to the owner to call the police.

Without any dialogue or interaction with these patrons they immediately became confrontational and violent by throwing glasses and chairs in our direction, yelling and screaming. I observed one of the people who appeared to be Vietnamese wearing a black leather jacket, standing up, pushed a chair in our direction and screaming "go ahead and call the cops". I then observed another male stand up and reach for something inside his coat. We then immediately retreated down the stairs, ducking glasses being thrown at us, and outside to the parking lot to my vehicle. While trying to unlock my vehicle I was struck in the side of the head with an object held by a Vietnamese male and then was swarmed by four to six other males. I was then struck again on the right wrist by another object held by one of the males as well as being kicked and punched from all sides. It appeared that the attackers were only interested in Barron and myself and we eventually retreated being chased by this group for about a block until they eventually gave up chase and left in vehicles. During the chase Barron called 911 and the police arrived shortly. A statement was given to the police by myself and the other officers. Myself and Barron dropped Lahota off to her vehicle and Ayers to her hotel. Barron then transported me to Richmond General Hospital Emergency to attend to my injuries. The injuries sustained were a concussion from the blow to the left side of my head and a fracture to my right wrist.

Received from Doug Dyck LCLB Inspector  
confirmed by phone to be sent by him.  


# JANG CHEUNG LEE CHU

## LAW CORPORATION

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July 13, 2006

File No. G060582-PC/YH

CITY OF RICHMOND  
6911 No. 3 Road  
Richmond, BC V6Y 2C1

**Via Courier and Fax: 604-276-4132**

Attention: Anne Stevens, Chief Licence Inspector

Dear Ms. Stevens:

**Re: Licence Review Hearing – 3:30 Café – 3779 Sexsmith Road, Unit 1101**  
**Our Client: Huggymear Canada Enterprises Ltd. dba 3:30 Café**

Further to the June 29, 2006 Show Cause Hearing, Mr. Mark Wai Hung To (the “Licensee”) wishes to provide the following information for the alleged contraventions on June 11, 2006.

The Licensee usually opens his café between the hours of 11am to around 2:30am 7 days a week. His liquor licence allows him to serve alcohol until 2:30am. On the morning of June 11, 2006, the Licensee had already closed the café at 2:30am. However, he left the doors unlocked in the event inspectors or police came by. He was told by previous inspectors they did not like locked doors as it could be an indication they were hiding something.

At 2:30am of June 11, 2006, a group of patrons came into the café. The Licensee told them he was already closed but they still came in and went upstairs to sit. The Licensee continued cleaning up and refused service to them. He thought if he ignored them, they would eventually leave the premises. They seemed harmless and did not appear to be intoxicated.

The group had been sitting in the Licensee’s café for about 30 minutes when the inspectors showed up. The Licensee spoke to the inspectors and was very cooperative. He told them there was a group upstairs and that he was thinking about calling the police if the group got rowdy. The inspectors walked around the restaurant and eventually went upstairs while the Licensee continued to clean up. The Licensee then heard a racket and saw the inspectors running downstairs with glasses flying at the inspectors. He called 911 at approximately 3:15am from his phone number of 604-279-9788. The group upstairs then came down and went outside. The Licensee followed suit and saw the group hit the inspectors and chase them away. By the time the police came, all the patrons were gone. At no time during this entire incident did the Licensee serve the group any food or alcohol. There was no way the group could have served themselves as all the liquor was kept behind the counters at the back of the café. The Licensee is unaware where the group got

hold of alcohol, if any.

Approximately a week after this incident occurred, at around 1:00am, a group of about 6 police officers came to the café without any warning and burst into the café. They searched the entire café without any permits at all. The Licensee had already closed the café but the police officers treated him as if he were hiding something and swore at him. The Licensee had nothing to hide and was just cleaning up the café.

Since the incident occurred, the Licensee has declined to serve customers any alcohol at all and he has voluntarily closed the café early at 9pm everyday in order to avoid repeats of any similar incidents from occurring. He is now only open from 11am to 9pm 7 days a week. He believes not serving alcohol and closing early would avoid further similar problems as any one looking to drink or eat at a later time or any potential trouble makers would avoid his establishment. The Licensee has had prior business experience without any major contraventions. He bought this business in March of 2006 and this is the only contravention of the business since he took over. This contravention was only due to a misfortunate event and is unlikely to happen again.

In order to avoid all troubles, the Licensee has voluntarily turned in his liquor licence to the Liquor Control and Licensing Branch on or around July 6, 2006. He is willing to lose the profits of alcohol sales to prevent further similar incidents from occurring.

In light of the actions taken by the Licensee to mitigate the incident that occurred on June 11, 2006, the Licensee wishes to make a humanitarian and compassionate appeal to the Licence Board not to have his business licence suspended. The Licensee would be placed in extreme financial hardship should the Licensee's licence be suspended as this is the only source of income for the Licensee. The café relies mainly on its food sales and its liquor sales. However, the Licensee has already voluntarily turned in his liquor licence as proposed during the Show Cause Hearing. This is a major loss in profits to the Licensee. If the Licensee's business was also suspended, this would have a huge detrimental impact on him as his business is quite small and has enough trouble maintaining afloat amongst all the competition. The business would also suffer as patrons of the business may be able to find a new restaurant or café to go to during the suspension period. The Licensee would essentially have to build up its cliental basically from scratch. This could take many months to do as there is stigma attached to businesses that have been closed for a period. Please take into consideration that the proposed suspension is too harsh a punishment in order to serve the public interest for such a small establishment.

The Licensee is willing to serve the public better by spending time and energy in coming up with a policy that would prevent further contravention of any bylaws and ensure against this type of event ever occurring again. He has already turned in his liquor licence. This loss of profits to the Licensee should be enough of a punishment if one is required for the incident that occurred on June 11, 2006. This unfortunate incident could have occurred at any establishment and was not limited to 3:30 café. The group just chose the Licensee's establishment to enter as it was open at that time. The Licensee should not be punished solely for being open at that hour. Please consider the Licensee's voluntarily return of his liquor licence and loss of liquor sale profits forever to be punishment enough for such a small business establishment. There is no further need to have the Licensee's business license suspended as well.

JANG CHEUNG LEE CHU

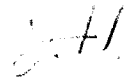
*Law Corporation*

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If you have any questions or concerns, please do not hesitate to contact the undersigned.

Yours truly,

**JANG CHEUNG LEE CHU**  
**LAW CORPORATION**

PER:   
YVONNE Y. HSU

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