



City of Richmond

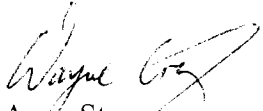
Report to Committee

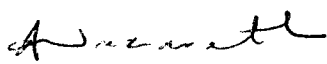
To: Planning Committee
From: Anne Stevens
Manager, Customer Services
Re: Home Occupation Business Licences in Strata Titled Complexes

to Planning - Oct. 04, 2005.
Date: September 7, 2005
File: 12-8275-06/2005-Vol 01

Staff Recommendation

That Council not support the position of requiring a Strata Council "Letter of Authorization" for all Home Occupation business licences in Strata Titled complexes but rather encourage individual Strata Council's to implement and enforce their own Strata bylaws regarding Home Occupations.

AS

Anne Stevens
Manager, Customer Services
(4273)

FOR ORIGINATING DIVISION USE ONLY			
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER (Acting)	
Business Licences	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Law	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
Budgets	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>		
REVIEWED BY TAG	YES <input checked="" type="checkbox"/> <i>DW</i>	NO <input type="checkbox"/>	REVIEWED BY CAO
			YES <input checked="" type="checkbox"/> <i>AS</i>
			NO <input type="checkbox"/>

Staff Report

Origin

At Planning Committee on January 4, 2005 the following was referred to staff:

"That staff review and update the City's home occupation permit regulations, particularly with respect to single family and multiple family residential developments, and that staff ensure that the interaction of strata bylaws with City bylaws is part of that review."

This report is intended to respond to the above referenced referral.

Analysis

Background

At Planning Committee, on January 4, 2005, Mr. Hugh Mawby approached the Committee requesting the process for approving Home Occupation Business Licences be revised. Mr Mawby, specifically requested that all Home Occupation Business Licence applications within Strata Titled residential buildings be required to submit an authorization letter from the Strata Council as part of the business licence process. Further discussion with Mr. Mawby indicated his concerns are primarily related to a "crafts and teaching" home occupation operating within the strata titled residential building he resides in and the associated business traffic.

A number of Cities in the lower Mainland were canvassed to determine their approach to Home Occupation within Strata complexes and it seems to vary from one City to another. Of the six cities canvassed only two requested letters from the Strata Council (**Attachment 1**).

Currently there are approximately 2,000 Home Occupations Business Licenses issued in the City of Richmond. Of these, there are approximately 606 located in strata titled residential/commercial complexes and would require letters of authorization from strata councils.

Current Business Practice

The City currently issues Home Occupation Business Licenses provided the proposed business is consistent with the provisions of the Zoning Bylaw and the appropriate application fees are provided (all business licence renewals are done automatically once the original business license has been issued). Home occupations are limited to crafts and teaching, residential registered offices, residential business offices and child care programmes. The zoning bylaw also stipulates the home occupation must:

- Be clearly incidental and accessory to the residential use of the dwelling;
- Be operated by a resident of the dwelling unit; and
- Not generate pedestrian or vehicle traffic to a greater extent than is normal in the zoning district in question.

City staff on an individual case-by-case basis investigates complaints on home occupations.

As Richmond continues to grow and more buildings are 'strata titled' including residential and commercial, a proliferation of requests may come from other Strata Councils. This would require new bylaws and additional staff to enforce these bylaws.

Strata Property Act

Presently the Strata Property Act, allows the owners through an Annual General Meeting to implement bylaws specifically for the residents/owners of the strata corporation. Each strata corporation 'must have bylaws and the bylaws may provide for the control, management, maintenance, use and enjoyment of the strata lots, common property and common assets of the strata corporation and for the administration of the strata corporation'.

Staff feel that utilization of the Strata Property Act is a more efficient way to manage the requests of the owners of each strata lot. This will meet the needs of all owners within the complex should they wish to implement a bylaw and enforce it.

Issues

Requiring written authorization from Strata Councils as part of the home occupation business licensing process is a complex issue. Prior to instituting a requirement for strata council authorization, the City must consider the following implications:

- Administration & Enforcement
- Impact on existing Home Occupations

Administration & Enforcement

Staff contacted the Lower Mainland jurisdictions that require a letter from a strata council as a condition of a home occupation to investigate what concerns/issues have arisen in this approach to licensing Home Occupations. The response was mainly the administrative responsibilities placed on the City to determine the authenticity of the letter. Strata Council's change yearly and the time required to process a business licence was greatly increased while waiting for the letter. For the most part the two cities accepted the letters at face value as it would take tremendous additional staff time to research and verify the authenticity of the letter, whether the letter was consistent with the complexes Strata Bylaws (i.e. did the Strata Bylaw actually allow or prohibit the proposed use) and whether the letter was provided in accordance with the Strata Council's authority and administrative procedures.

Should someone complain that the Strata Council did not authorize the letter, the City would have to investigate the situation and possibly revoke the business licence. In some cases the business would carry on and legal action would have to be taken. This would be another cost to the City. Should there be a disagreement between the owner and the strata council, the owner could potentially expect the city to resolve it.

There is a strong concern from staff that should the City consider this request there maybe additional requests from Strata Councils to enforce areas within the Property Act that should be enforced by the Strata Councils. An example of this maybe the licensing of dogs in Strata-Tilted residential complexes where Strata Council bylaws prohibit certain types of pets.

It was felt by the two municipalities that required a "letter of authorization" the Strata Council through the Strata Property Act had more 'power' within their own bylaws to restrict home occupations from operating within the complex than the City.

Impact on Existing Home Occupation Permits

Should the City require a letter from a Strata Council as part of the Home Occupation Business Licensing process the requirement could only be applied to new home occupation permit applications. Existing home occupations would be considered legal non-conforming uses and would be able to continue operating under the original terms of their business license.

Options

- Status Quo – not require letter authorization
- Implement a zoning change – implications to staffing and processing

Staff recommend that the City not request the letter of authorization from each resident in a Strata Complex as it is better enforced within the Strata Property Act by Strata Councils.

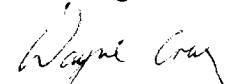
Financial Impact

Should Council wish to implement this process a minimum of \$50,000 - \$55,000 for one additional staff member would be required to administer and enforce this proposal. The funding request would have to be part of the additional levels budget process.

Conclusion

Staff feel that a better process, with stronger power, exists within the Strata Property Act. This act allows Strata Council's to implement bylaws specific to their complex, which restrict or prohibit various activities for all residents.

How this might work within the Strata Corporation would be that a letter of authorization would be required within the Strata Bylaws themselves. This would ensure that all residents of the complex had an opportunity to vote on the proposal. Once the Bylaw was passed by the residents, the management company through the Strata Council would be responsible for enforcing the strata bylaw.

for 
Anne Stevens
Manager, Customer Services
(4273)

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Home Occupation – Strata Corporation Involvement Summary

Jurisdiction	Contact Information	Home Occupations	Limitations/Requirements for Strata Title Developments	Mechanism for requiring Strata Approval	Additional Comments
Burnaby	604-294-7320	Permitted in Zoning Bylaw	None	Not Applicable	Do not ask if Strata Corporation has approved of business according to Business Lic Staff
City of Coquitlam	604-927-3085	Permitted in Zoning Bylaw	None	Not Applicable	Left to applicant to ensure Strata is OK
City of New Westminster	604-527-4565	Permitted in Zoning Bylaw	Landlord or Strata Corporation approval required	Voice mail	Information on City Website indicates written approvals required
City of North Vancouver	604-983-7356	Permitted in Zoning Bylaw	Landlord or Strata Corporation approval required	Joanne – contained within Zoning Bylaw Section 507 Special Provisions for Uses in Residential Zones	Information on City Website indicates written approvals required
City of Surrey	604-591-4370	Permitted in Zoning Bylaw Multiple Residential Zones limit types of Home Occupations to telephone	Rental property requires permission from the Property Owner	Not Applicable	No Strata approvals required but Multi-family home occupations are very limited vs. SFR home occupations
Corporation of Delta	604-946-3380	Permitted in Zoning Bylaw	Businesses operating in multiple family dwellings, including a duplex require permission in writing from: <ul style="list-style-type: none"> • The owner and/or manager of the building • The occupants of the adjoining dwelling units 	Lee Fraser (business lic.) – regulations are contained in Zoning Bylaw	Information on City Website indicates written approvals required for multi & duplexes
City of Vancouver	604.873.7568 Rosemary: 604-873-7546	Permitted in Zoning Bylaw	None	Not Applicable	Not required according to Rosemary – Manager Lic.