



City of Richmond


Report to Committee

To: Richmond City Council
From: W. Glenn McLaughlin
Chief Licence Inspector & Risk Manager
Re: **Business Licence Refusal Reconsideration**


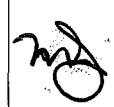

Date: December 12, 2014
File:

Staff Recommendation

That Council uphold the decision to refuse a Business Licence to Sigma AEG Arena to operate an Airsoft Gun Arena at 6711 Elmbridge Way.


W. Glenn McLaughlin
Chief Licence Inspector & Risk Manager
(604-276-4136)

Att. 2

REPORT CONCURRENCE	
CONCURRENCE OF GENERAL MANAGER 	
REVIEWED BY STAFF REPORT / AGENDA REVIEW SUBCOMMITTEE	INITIALS: 
APPROVED BY GAO 	

Staff Report

Origin

City staff have refused to issue a Business Licence to Signa AEG Arena, owned by Mr. Eric Lam, to operate an indoor Airsoft Gun facility at 6711 Elmbridge Way.

Under the *Community Charter* Section 60 - Business licence authority

(5) If a municipal officer or employee exercises authority to grant, refuse, suspend or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have the council reconsider the matter.

Mr. Lam has requested that Council reconsider the decision to refuse his Business Licence application. (Attachment 1)

Analysis

Under the Richmond Business Licence Bylaw No.7360:

1.6 All premises in the City from which an applicant proposes to conduct business must be approved by the Licence Inspector for compliance with the Zoning and Development Bylaw, the Building Regulation Bylaw, the Fire Prevention Bylaw, and any other applicable City bylaws and regulations before any licence is granted.

The business licence application requires, amongst other details, a detailed description of the business, which is then interpreted by staff to meet a Permitted Use classification under the Richmond Zoning Bylaw No. 8500, which defines the land use activities that may take place on a given property.

The activities proposed by the applicant are interpreted to meet the definition of an Indoor Shooting range defined as:

Indoor shooting range means a facility which is wholly enclosed within a building or buildings designed for the safe use of the discharge of firearms. Firearm for the purpose of this definition includes any gun using propellant, compressed air, explosives or gas. [Bylaw 8554, Dec 14/90]

As staff interpret an Airsoft Gun to meet this definition of a Firearm, it requires the proposed parcel be zoned to include an indoor shooting range as a permitted use. The applicants intended property at 6711 Elmbridge Way is zoned Industrial Business Park (IB1), which does not include an indoor shooting range as a permitted use.

The applicant states in his request for reconsideration that "Airsoft is like Paintball". Paintball is a defined activity within the Zoning Bylaw definition of Recreation, Indoor. The history of the inclusion of this use in the definition of recreation, indoor dates back to the development of the current Richmond Zoning Bylaw 8500 that considered activities currently underway at

Richmond indoor recreation facilities when the bylaw was adopted. As there was an existing paintball business operating in Richmond, this activity was included in the definition.

The applicant also identifies that his proposed facility “will be the only Indoor Airsoft dedicated facility within BC”.

In 2012, Council received a memorandum from staff dealing with Replica Firearms in relation to Airsoft Guns. Although the identification and regulations over Replica Firearms are not within local government jurisdiction, under Section 8 of the Community Charter - Fundamental Powers:

(3) A council may, by bylaw, regulate, prohibit and impose requirements in relation to the following:

(e) bows and arrows, knives and other weapons not referred to in subsection (5); which states;

(5) A council may, by bylaw, regulate and prohibit in relation to the discharge of firearms.

Pursuant to the *Community Charter* Section 8 (5), Council has enacted Regulating the Discharge of Firearms Bylaw No. 4183. Bylaw 4183 limits a firearm discharge to very specific circumstances. The definition of a Firearm in this bylaw means:

"FIREARM" means a rifle, pistol, or shotgun and includes air guns, air rifles, air pistols and spring guns but does not include firearms used for the discharge of blank ammunition in connection with an athletic or sporting event.

Notwithstanding if an Airsoft Gun is or resembles a firearm (Attachment 2) and without considering the projectile or its velocity when discharged from an Airsoft Gun, an Airsoft Gun is interpreted to fall within the City’s regulatory regime under the definition in the Richmond Zoning Bylaw No. 8500 or the Discharge of Firearms Bylaw No. 4183.

In October 2014, staff also refused to issue a business licence for another Airsoft facility. This applicant subsequently reapplied to operate a paintball facility. This application is currently pending subject to a regulatory review for building code and other bylaw compliance matters.

The following options are presented for Council’s consideration.

Option 1

That Council upholds the refusal to issue a Business Licence to Sigma AEG Arena to operate an Airsoft Gun Arena facility at 6711 Elmbridge Way. This will mean that an Airsoft Gun will continue to meet the City’s definition of a firearm along with Pellet and BB Guns.

Option 2

That staff be directed to bring forward Bylaw amendments that specifically exclude an Airsoft device from the definition of a Firearm and include the activity as a Permitted Use definition in recreation, indoor.

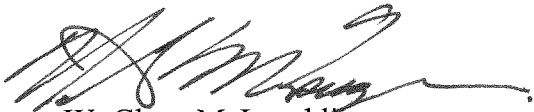
Financial Impact

There is no financial impact related to this report.

Conclusion

Richmond bylaws speak to regulating recreational “firearm” activity which historically is considered to include Air Rifles, BB Guns and Pellet Guns. Airsoft devices may be considered to be a new entrant that falls within the scope of devices intend to be administered within the City’s “firearm” regulatory regime.

It is recommended that Council uphold staffs’ refusal to issue a Business Licence to Sigma AEG Arena to operate an Airsoft Gun Arena at 6711 Elmbridge Way and affirm Richmond’s desire to regulate these “firearm” alike devices in the community.



W. Glenn McLaughlin
Chief Licence Inspector & Risk Manager
(604-276-4136)

WGM:wgm

- Att. 1: Applicants request for Council Reconsideration
- 2: Airsoft Device picture and features

CITY OF RICHMOND

DEC -4 2014

RECEIVED

Dear Richmond City Council

Re: Opening of an Airsoft Field at 6711 Elmbridge Way

Greetings, I am Eric Lam and I want to open an Airsoft field in Richmond for the young adult population residing here. I am requesting the council to reconsider the refusal of my business licence application. I have and offer to lease which is worth \$150,000 per year secured on a space. The business has an estimated start-up cost of \$523,000 (both numbers are rounded). To my current knowledge this space satisfies all the necessary requirements for assembly use 3. The facility will be the only indoor Airsoft dedicated facility within BC and is expected to bring in over 10,000 participants per year.

Airsoft guns fall are believed to fall under bylaw 4183 as they are perceived by the city as firearms. I recently visited the RCMP Chief Firearms office and received an email dictating these are not firearms. (Appendix B) the kind officer also offered for you to contact him if you have more questions (Bali Mann). I have also contacted the local Richmond RCMP (attached in Appendix C). The constable informed me that only firearms need to be zoned for shooting range use.

Due to my understanding, the standing issue of this operation is centralized around the misjudgement of airsoft gun implications and dangers. Richmond's bylaw definition lends from the Community Charter of BC which has the exact definition of Firearms in it (which states clearly that Airguns are firearms). Attached in Appendix D I have created a small chart about the differences between Airguns and Airsoft guns. As well, I have also attached in Appendix E a list of cases where the Supreme Court of BC has ruled that Airsoft Guns are not firearms. Instead they can be replica firearms (only in the case of importation). The definition for an indoor shooting range in Richmond's bylaws also lends its definition from the Firearm's act (appendix F). According to the Act, if we were to open an actual shooting range we would request the chief firearms officer to issue a permit, however, from early you will recall we were informed they are not firearms thus no permit is needed.

Airsoft Guns are very different from Air Guns as they fire 0.2g BBS. These bbs cannot cause any serious harm and thus do not fall under the federal or provincial definition of firearms. Air guns on the other hand fire a .117 Calibre lead BB which if fired over 500fps is faster than a slug from a pistol and can cause serious bodily harm.

What is Airsoft?

Airsoft is like Paintball, but with different guns and different ammunition. Airsoft was first recognized as a sport in Japan in 1970. Early guns were all spring action meaning that after every shot a player had to cock back the weapon to shoot the next round. It wasn't until a company named Tokyo Marui developed the first Automatic Electric Gun (AEG) in the 1990 decade. The sport gained more popularity as players were able to shoot upwards of 700 rounds per minute. Paintball's evolution is approximately ten years ahead of Airsoft.

Airsoft Projectiles:

Airsoft uses 6mm 0.2 gram plastic pellet whereas paintball use a 20 gram gelatin ball filled with a colored starch (paint) compound. An Airsoft pellet puts out 0.5 -1.0 joules of energy on impact whereas a paintball puts out 15-20 joules on impact. A paintball will leave paint everywhere and break through quarter inch plywood. An Air soft pellet will not cause damage.

Airsoft Fields:

https://www.youtube.com/watch?v=QO_kY5vq7yY

<https://www.youtube.com/watch?v=n77Sid0I74Y>

Please watch the above two links. One field is an airsoft field and the other is a paintball field. A key difference in the two facilities to be noted is the cleanliness and field set up. Paintball fields get covered in paint. Airsoft fields are generally kept very tidy. For our proposed facility, all our walls will not be bolted down so that we can change the entire field once every two weeks. This will also let us return the facility to original condition in two days.

We have negotiated a conditional Offer to Sub Lease #120 – 6711 Elmbridge Way and wish to commence this process with the City of Richmond immediately.

Sincerely,

Eric Lam

Appendix B: Email from Chief Firearms Office

Hi Eric,

Here are some links to some information regarding Air Guns from the RCMP website:

HTML:

http://www.rcmp-grc.gc.ca/cfp-pcaf/fs-fd/air_gun-arme_air-eng.htm

PDF:

http://www.rcmp-grc.gc.ca/cfp-pcaf/fs-fd/PDF/air_gun-arme_air-eng.pdf

As Airsoft Guns, for the most part, are not considered firearms, your licencing and dealing with the City of Richmond unfortunately have nothing to do with the Canadian Firearms Program as such, we cannot comment on the safety of them either.

I would forward the City of Richmond the above mentioned links and see if that is sufficient for what they are looking for. You or they can also look at the Canadian Criminal Code for specific information regarding weapons and firearms definitions.

If there is a specific letter they are looking for, I would suggest speaking with the local RCMP detachment as Air Soft's do not fall under the Firearms Act, which is what we deal with here.

Bali Mann

Firearms Officer / Préposé aux armes à feu
British Columbia & Yukon / Colombie-Britannique et Yukon
Royal Canadian Mounted Police/Gendarmerie royale du Canada
Canadian Firearms Program/Programme canadien des armes à feu
5477 rue 152 Street, Unit/Unité 118
Surrey, BC /Colombie-Britannique V3S 5A5
Telephone/Téléphone: 778-571-3408 / 1-800-731-4000 Ext/poste 9546
Facsimile/Télécopieur 604-575-1241
Email/courriel bali.mann@rcmp-grc.gc.ca

Appendix C: Email from Richmond RCMP

Hi Eric,

I have asked my partners at the City of Richmond and they have informed me that bylaw 4183 was amended in 2009 and what I have been told is that basically indoor shooting ranges are restricted to industrial areas such as Mitchell Island. The definition of a firearm includes any gun which uses compressed air from the City perspective.

A letter from myself will not change the City of Richmond's definition of a firearm.




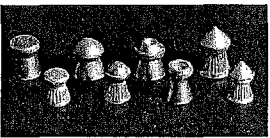
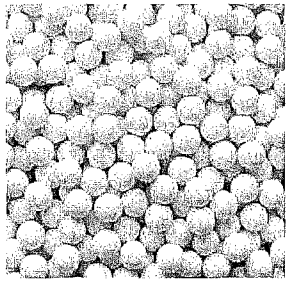

I did some research on the internet and looks like the Richmond Rod and Gun Club was approved for an indoor shooting range on Mitchell Island according to their website.

I wish you luck in your business venture.

Thanks, Marco

Cst. Marco Sallinen
Richmond RCMP
Economic Crime Unit

Appendix D: Chart on Airsoft guns, Paintball and Airguns

	Air Guns	Airsoft	Paintball Markers
Image			
Projectile	 <p>.177 calibre lead bb s</p>	 <p>0.2g Plastic Bbs</p>	
Harm	Ability to draw blood if firing above 500 fps	Will never cause any serious bodily harm as bbs weigh less than 0.45 grams	Welts, bruising, no serious bodily harm
Legality	Classified as firearm under firearms act if it shoots over 500 fps	Not classified as firearm under firearms act due to inability to cause serious bodily harm	Not classified as firearm under firearms act due to inability to cause serious bodily harm

Appendix E: Cases where Airsoft has not been deemed firearms

R. v. Walsh, 2012

R. v. Wong, 2009

Poirier v. Canada Border Services Agency, 2007

Olson v President of the Canada Border Services Agency, 2013

Asia Pacific Enterprises Corporation v. Canada (Customs and Revenue), 2006

Leung v. Canada (National Revenue), 2002

FIREARM ACT

[RSBC 1996] CHAPTER 145

Definitions

1 In this Act:

"carry" includes store, or have in possession in an aircraft, boat, motor vehicle or motor vehicle trailer, other than a public conveyance, whether the aircraft, boat or motor vehicle is or is not used as temporary or permanent living quarters;

"chief provincial firearms officer" means the person designated in writing by the Attorney General as the chief provincial firearms officer;

"conservation officer" means a conservation officer defined in section 1 (1) of the *Environmental Management Act*;

"firearm" includes any gun using, as a propellant, compressed air, explosives or gas;

"permit" means a written authority issued by the chief provincial firearms officer or by a person authorized by the chief provincial firearms officer.

Permits for indoor shooting ranges

2 (1) Despite

(a) a regulation made under section 108 (2) (n) or (o) of the *Wildlife Act*, or

(b) a bylaw under section 8 (5) [*fundamental powers — firearms*] of the *Community Charter*,

the chief provincial firearms officer may issue a permit authorizing a person to establish and maintain an indoor shooting range and to discharge a firearm in the indoor shooting range.

(2) If a permit is issued under subsection (1), the chief provincial firearms officer may do one or more of the following:

- (a) attach conditions;
- (b) restrict the kinds of firearms that may be discharged;
- (c) restrict the kinds of projectiles that may be discharged;
- (d) restrict the operation of the permit to a use ancillary to the trade or calling of the permit holder;
- (e) restrict the application of the permit to premises owned or occupied by the permit holder;
- (f) extend the application of the permit to other persons when they are on the premises specified in the permit with the consent of the permit holder.

Exercise of care for safety of others

- 3 A person who is in possession or control of a firearm must exercise care for the safety of other persons or property.

Search without warrant

- 4 Without a warrant, a conservation officer or peace officer may do one or more of the following:
 - (a) search a person the conservation officer or peace officer suspects of possessing a firearm in contravention of this Act;
 - (b) stop and search a conveyance mentioned in section 9 in or on which the conservation officer or peace officer suspects a firearm is being carried in contravention of this Act;
 - (c) seize the firearm, and dispose of it under this Act.

Arrest of person in act of committing offence

- 5 Without a warrant, a conservation officer or constable may arrest a person the conservation officer or constable finds in the act of contravening this Act or the regulations.

Persons prohibited from carrying firearm

- 6 A person designated in the regulations is prohibited from carrying or discharging a firearm, except under the terms of a permit.

Duty to produce permit

- 7 A person who holds a permit under this Act must produce it on the request of a conservation officer or constable.

Confiscation of firearm

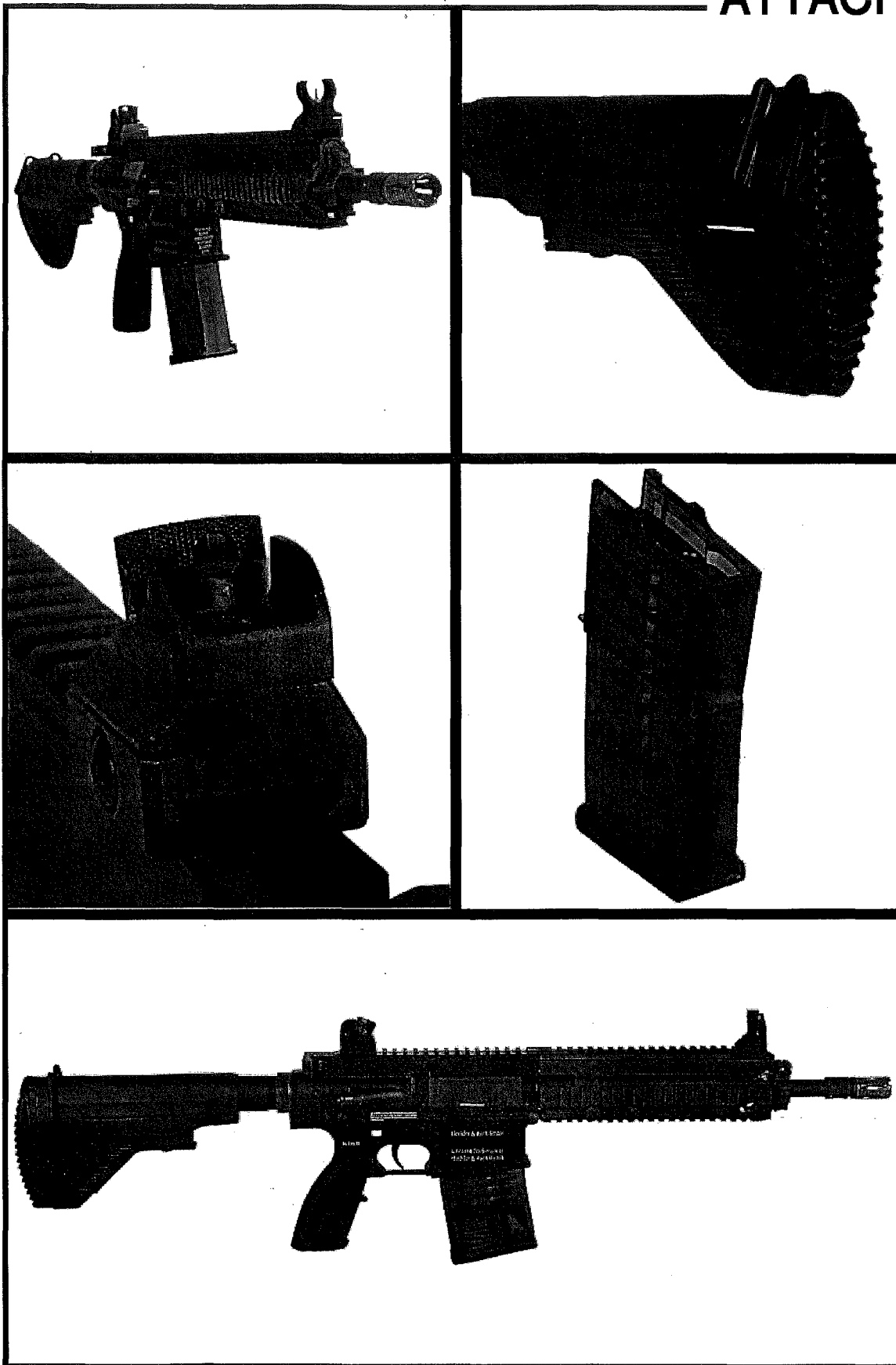
- 8 A firearm seized under this Act may be taken before a justice, and, on proof to the satisfaction of the justice that the firearm was at the time of seizure being carried or used in contravention of this Act, the justice may order the firearm confiscated and order its sale, destruction or other disposition.

Offence

- 9 (1) Unless authorized by the regulations or a permit, a person must not discharge, carry or have in the person's possession, in or on a railway car, hand car or other vehicle on a railway, or in or on a motor vehicle, wagon, sleigh, aircraft, bicycle or other conveyance, a firearm containing live ammunition in its breech or in its magazine.
- (2) A person who contravenes subsection (1) commits an offence.

Power to make regulations

- 10 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) requiring described persons to pass an examination on knowledge and proficiency in the safe handling of firearms;
 - (b) exempting other described persons from passing an examination on knowledge and proficiency in the safe handling of firearms.



CNCL - 15

Model Number: 2279046

The H&K 417 is a fully licensed modern rifle that can fill multiple roles on the Airsoft Field. The real steel HK417 shoots a larger caliber round when compared to the HK417 and this shows in the Airsoft version down to every detail. Its high accuracy and power makes it an excellent choice for a DMR role, yet the shorter barrel length makes it a good Assault or CQB Rifle as well.

Features:

- Fully Licensed by H&K
- Full Metal
- Unique Serial Number
- Functional Charging Handle and Bolt Release
- RIS
- Bearing Spring Guide
- Electric Blowback
- Semi and Full Firing
- Adjustable Stock Length
- High Torque Motor
- Aluminum Piston Head

Includes:

- Elite Force H&K 417 FPS-420 Full Metal Electric Airsoft Rifle
- 100RD Magazine
- User Manual

Specifications:

- FPS: 420 (With 0.20g BBs)
- Magazine Capacity: 100RD
- Length: 32 Inches Retracted / 35 Inches Extended
- Battery & Charger (Not Included)

Battery Requirements:

- Battery: 9.6V Nunchuck w/ Small Type Connector (Not Included)
- Charger (Not Included)

Electric Airsoft Rifles use batteries as their power source and they shoot very fast. Some Electric Airsoft Rifles come with semi-automatic fire. That means that when you pull the trigger only 1 BB will come out at a time. Other Electric Airsoft Rifles come with full-automatic fire. This means that when you pull the trigger multiple BBs will come out at a time. The longer you hold the trigger down the more BBs come out. Check the description above to see which kind of gun this is and if it is right for you. Electric Airsoft Rifles don't require any pumping or cocking, just simply point and shoot. This is a High End Electric Airsoft Gun. Please only use .20 gram high quality BBs with this item in order to keep it in proper working order. Using anything else as ammunition for this gun will void the warranty and may cause it to jam. Also, to keep your Electric Airsoft Gun working properly, do not fire the gun when there are no BBs in it as it may cause damage to your gun. You must be 18 years of age or older to purchase this Airsoft gun.