

Monday

MAGAZINE

Everything's Not Fine

Why some businesses are getting fed up with downtown policies

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Where's the "F" in Fun?

Some downtown businesses are concerned about their futures in "No Fun City"

By ANNA KEMP

Wasn't it just last summer that we were so pleased with Victoria, with all its outdoor events and festivals? We were developing an exciting nightlife, we said to each other, just like a real city. But this summer it seems the good times have dried up and some frustrated downtown businesses are concerned about where our fair city is headed. I don't know who coined the term "No Fun City" (it wasn't us, was it?), but the term is starting to stick.

Some of the main complaints centre on the actions and attitudes of Liquor Control and Licensing Branch inspectors who, according to Liam Lux, general manager of Lucky Bar and spokesperson for the Victoria Bar and Cabaret Association, are becoming increasingly difficult to please.

Lux says despite their willingness to work with inspectors, some businesses feel they are being unfairly treated. "They seem to be trying to hand out as many tickets as possible," says Lux, who warns the constant fines combined with city bylaw requirements may seriously damage local bars and restaurants.

"If you add up the fines for contraventions in the past few weeks, that's over a hundred thousand dollars," says Lux. Fines for a contravention range from \$1,000 to around \$10,000, and are usually accompanied by a closure. Although, technically, not all contravention notices result in fines, Lux says that, recently, all contravention notices issued are being accompanied by fine and closure recommendations. (Inspectors can not make fine and closure decisions, but make recommendations to managers.)

"When it's costing the hospitality industry into the three-digit numbers, we'll eventually be talking about a closed, bankrupt downtown."

While Lux says a number of downtown businesses have had recent run-ins with the liquor inspectors, most cannot comment on them because they are currently in legal proceedings. He did say representatives from the VBCA, comprised of all the liquor primary bars and nightclubs downtown, will be meeting with senior management representatives from the LCLB next week to discuss their Victoria inspection program. Event organizers have also been hit by what Lux sees as heavy-handedness on behalf of the LCLB. Last week, due to the intervention of a liquor inspector, the taps were turned off prematurely in the Ska Fest beer gardens.

Heather Furneaux, one of Ska Fest's organizers, says part of the initial problem with the beer gardens was that all the requirements of their Special Occasions License were not spelled out on the license or on the LCLB's website. When the liquor inspector expressed his concerns—primarily about enclosure of the area—on the first night, Furneaux says they

worked with him to improve the beer gardens to an appropriate standard.

But when the inspector followed up with them the next night, Furneaux says he was unreasonable in his approach and his criticisms, although staff did their best to accommodate his demands.

"I don't want to slam him per se but . . . I guess he basically said what he saw and if there were certain questions asked, he wouldn't answer them clearly all the time. I don't think that was helpful," says Furneaux.

"He said the beer gardens were overcrowded, so we got people out, but when I asked him, 'What do you think the capacity of the beer garden should be?' he wouldn't answer me . . . and he said that we were over-serving people, which wasn't the case, but that's pretty hard to prove."

Furneaux says the inspector confronted two people he'd seen hop the fence into the beer garden, taking their drinks and threatening to arrest them if they didn't leave immediately. He then got into a confrontation with a volunteer security person who was concerned the inspector had jumped over the fence to exit the beer gardens.

"He started telling me he could do whatever he wants," says security volunteer Kelly Yaeger. "I kept saying 'No, no, there's rules you have to follow' . . . He was very demanding, ordering and rude . . . He told me flat out, 'I'm just looking for a reason to close the beer gardens down.'"

And that's exactly what happened, three hours before the show was due to end.

Barry Beiller, LCLB director of policy, planning and communications, says that although it is unusual for an inspector to shut down an event, it does happen on occasion. (Liquor inspectors themselves are not authorized to speak to the media, so all *Monday* enquiries had to be directed to a spokesperson.)

"There's authority in the *Liquor Control and Licensing Act* that gives our inspectors and police the authority to shut a place down for a period of not more than 24 hours if the employees or patrons are drunk, disorderly, violent or if people's safety is in jeopardy," says Beiller. He could not comment on what happened at Ska Fest, though he thought there might be some debate as to whether the inspector and police had actually terminated the license or simply recommended closure to the licensee.

Karen Ayres, LCLB general manager, says the role of inspectors is to "work with licensees to ensure voluntary compliance."

"We focus our enforcement on public safety issues . . .

BENMOOREPHOTO.COM



Victoria Bar and Cabaret Association spokesperson Liam Lux

About that nuisance bylaw

On June 21, 2007, Victoria city councillors amended a nuisance bylaw to deal with late-night disturbances on downtown streets (see "Bylaw Annoys Pizza Guy", May 31, 2007). Under the new regulation, businesses that receive more than six complaints about the behaviour of their patrons can be forced to shut down at 11 p.m.

Ken Kelly, Downtown Victoria Business Association general manager, says the new regulations will help to create a more orderly downtown. "Tourism is a global economy," says Kelly. "We don't want people visiting our community to leave with complaints. There are an awful lot of other places they could go."

Jeff Hurry, owner-operator of The Joint pizza shop on Wharf Street, whose business has received numerous complaints, says that the new rules unfairly target businesses. "How do you define who is at fault if it's not the person themselves?" asks Hurry. "Is it the pizza joint where they are standing, the bar who served them the alcohol, the taxi who didn't come to pick them up?"

Sonya Chandler was the only city councillor who voted against the motion agrees that punishing late-night eateries like The Joint may not be a fair solution. "I just don't know that it is that easy to pinpoint responsibility," says Chandler

While she says there is a growing problem with public disorder downtown, Chandler would like to see a solution that looks at the "big picture." She suggests forming a group, which includes all affected parties, to come up with approaches.

—A.K.

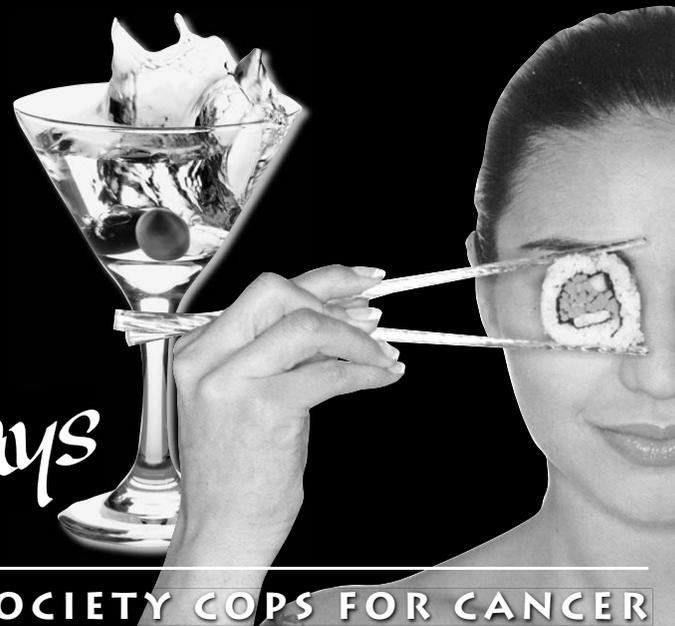
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. some of it is routine and some of it is in response to complaint," says Ayres.

Brooklyn Galloway, another Ska Fest organizer who dealt with the inspector that night, says she doesn't feel he was trying to "work with" the festival's staff and volunteers to resolve any concerns.

"He was not being professional and trying to help us to make things better. We were willing to oblige and obviously we were doing our best to do that, but he was making it impossible because he was nitpicking at every little thing . . . we were basically babysitting him rather than focusing on what our job was."

According to Lux, a number of establishments have made the same complaint about dealing with liquor inspectors.

"Historically, most effective inspectors formed a relationship with establishments," says Lux. "It used to be that if an inspector came in and saw you were doing your best, he'd issue a warning. Enforcement was only recommended if you showed flagrant disregard for the regulations."

Now, Lux says, some inspectors seem unwilling to work with businesses to help them comply.

"Wouldn't it be common sense that if you are looking for compliance to communicate?" asks Lux. "If your neighbours are making too much noise, do you knock on their door or throw a rock through their window?"

Sheryl Masters, City of Victoria manager of administration, says complaints about inspections being stepped up are probably a reaction to having more liquor inspectors in town. Victoria currently has four inspectors monitoring the Victoria region.

"Liquor inspector numbers were down and so there weren't a lot of liquor inspections taking place," says Masters. "Now there are a couple of new inspectors in town and they're just following their mandate . . . Liquor operators know what they have to do to ensure that liquor service follows the regulations. They've got a very clear set of rules that are easy to follow and so do the liquor inspectors."

Lux says he wonders if increased pressure on downtown bars and events is part of a City policy, but officials from both the City and LCLB say that while the two bodies communicate, LCLB inspectors, who are provincial employees, follow their own mandate.

"Inspectors focus on over-service, under-age drinkers, show-



The Joint owner Jeff Hurry

ing ID at the door . . . basically they're out with the police ensuring public safety and so is the City," says Masters. "The City helps regulate the number of seats and the hours of operation . . . so I think we're all working together. Everybody is trying to ensure that we have a vibrant downtown but a safe downtown."

Speaking on behalf of the VBCA, Lux says he doesn't agree that City, police and LCLB policies will ensure downtown's vibrancy. "Inspectors and the City seem to be getting more and more strict and don't seem to be interested in solutions," says Lux. "The new nuisance bylaw that can force a business to close at 11 p.m. . . . the police yanking the liquor license from a Curling Club concert with 24 hours notice . . . It's starting to make me wonder." [Lux refers to a Social Distortion concert booked by Atomique Productions back in April whose liquor license was approved, then revoked at the last minute.]

"How are we not supposed to feel that what they want is a completely closed and quiet downtown?"

So why are the city's officials being such killjoys? Lux suggests asking ourselves, "Who benefits?"

"Where is most of the money being spent in the city?" asks Lux. "It's the people building condos."

Rob Woodland, City of Victoria corporate administrator, agrees that the City is supportive of downtown residential development which can sometimes conflict with downtown nightlife.

"I can certainly say that the City believes that attracting downtown development is good for the city overall. It provides a community of interest for downtown and generally it stimulates commercial activity, be it daytime businesses or restaurants and evening entertainment spots," says Woodland. "Our goal is to manage the conflicts that arise so that people who come to downtown Victoria for entertainment continue to do so, but their activities don't overly negatively affect the life and enjoyment of the residents."

Jeff Hurry is owner of The Joint pizza shop on Wharf Street, one of the late-night eateries threatened with the new nuisance bylaw.

"The city has this weird concept that they want people to be living downtown but not having fun downtown," says Hurry. "Downtown core revitalization sounds great—lets get more people living downtown and not commuting . . . but the people moving down here, paying half a million dollars for an apartment . . . they know they are moving downtown, but they're spending so much money that they end up complaining when they're woken up at night by people having fun."

"Victoria used to be called the place of the newly wed and nearly dead, I thought it would be the opposite way with the revitalization thing, but now they want us to go home and go to bed at 11 p.m. . . . It's a small-city mentality, but we're not a small city anymore."

Are people who move downtown perhaps expecting too much to want quiet streets below them? Is the city pandering too much to the concerns of developers? From the perspective of many downtown late night businesses, one thing is certain—the city is not giving enough thought to Victoria's nightlife and the businesses that provide it.

"We're not a bunch of irresponsible louts," says Lux who feels that inspectors, the City and even local media tend to think of bar owners that way. "We are active members of the community . . . Our mandate is to offer entertainment to the community, both national and local. We host music, art shows, theatre, comedy, film festivals. We often support charities and local events."

And lets face it, in the long run, Victoria's entertainment venues are just trying to keep a little bit of fun in "No Fun City." M

Potential LCLB infringements

Liquor licence compliance and enforcement is focused on key public safety issues, such as intoxication, service to minors, overcrowding, illicit liquor, unlawful activities in licensed establishments and liquor-related community disturbances. The top three infringements for which the Liquor Control and Licensing Branch issued contravention notices in 2006 were permitting an intoxicated person to remain, failure to request identification and minors in licensed premises.

According to Karen Ayres, LCLB general manager, liquor inspectors work with licensees, inspecting their establishments and educating them on their responsibilities under the Liquor Control and Licensing Act. "Where they identify that there is a contravention—something that is not in compliance with the act and regulations—they are actually required to issue a contravention notice," says Ayres. "There is no discretion built in to the regulations, which is a misconception some people have."

A contravention notice initially is like a warning notice and depending on a number of circumstances including the type of contravention, the history of the establishment and the reaction of the licensee, that may be the end of it. If an inspector decides to recommend further enforcement, he sends that recommendation to a senior officer who decides whether to issue a notice of enforcement action (NOA), which generally involves a closure and a fine.

"When a NOA is served, the licensee has a chance to sign a waiver and agree to the penalty," says Ayres. "If the licensee doesn't agree with the penalty or doesn't agree that the contravention occurred as the inspector described it, they have the opportunity to go to a hearing. That hearing is held before an adjudicator who listens to the evidence and makes a determination as to whether or not the contravention has been proven and what the appropriate penalty should be."

—A.K.

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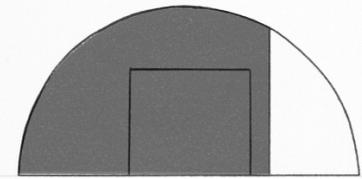
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Scott Ingram isolates architectural elements from the urban landscape to emphasize what he observes to be the essential design and form of the given structure.

Scott Ingram | Storage-Shed - Rotterdam, 2006
Colored pencil on paper | 13 x 11.25 inches



JULY / AUGUST HIGHLIGHTS

- 26 ARTIST TALK & OPENING RECEPTION**
LAB7.1 with Scott Ingram, 7:30pm
- 29 FINAL DAY! Rodin: A Magnificent Obsession**
- 01 Ikebana Demonstration**
with Jennifer Roberts, 1:00pm
- 08 Ikebana Demonstration**
with Philip Sanders, 1:00pm
- 16 PASSING THOUGH exhibition tour**
with Iain Baxter & James Patten, 6:30pm
- 16 OPENING RECEPTION**
for ROBERT YOUDES: beautiful beautiful artificial field, Passing Through: Iain Baxter & Photographs 1958-1983, and Folk Yarns: Japanese Textiles, 7:30pm

ONGOING EXHIBITIONS

- Rodin: A Magnificent Obsession, Sculpture from the Iris and B. Gerald Cantor Foundation**
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