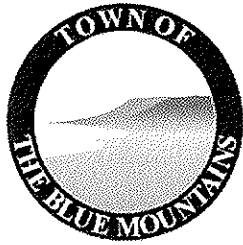


STAFF REPORT: BUILDING & BY-LAW DEPARTMENT



REPORT TO: Planning & Building Committee
MEETING DATE: May 3, 2010
REPORT NO.: SRB.10.12
SUBJECT: "Blue Mountain Resorts Limited",
Monterra Tennis Dome at The
Village Conference Centre – Noise
By-law Relief Request
PREPARED BY: Greg Miller, Manager, Building &
By-law/CBO

A. Recommendations

THAT COUNCIL receive Staff Report SRB.10.12 and authorize relief from the Town's Noise By-law to Blue Mountain Resorts Limited, "Monterra Tennis Dome at The Village Conference Centre, so as to permit an exception to the Noise By-law to facilitate a Liberal Party Annual Conference on May 15th, 2010 with the relief being limited to the making of noise until 24:00 (12:00 midnight).

B. Background

The Request

The Town is in receipt of a request from the Blue Mountain Resorts Limited, the Operator of the subject premises for relief from the provisions of the Noise By-law (Addendum "A") on May 15th, 2010.

Section 3 g) of the Noise By-law permits noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountain" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours.

Since this event is taking place inside the Monterra Tennis Dome, Town Staff are therefore recommending that Council grant an exemption to the Noise By-law for this event to 24:00 (12:00 midnight).

C. The Blue Mountains' Strategic Plan

"Providing a strong, well managed municipal government."

D. Budget Impact

N/A

E. Addendums

- A. Request from Blue Mountain Resorts Limited.
- B. Office Consolidation of the Noise By-law.
- C. Letter from Blue Mountain Village Association authorizing this event.

Prepared by:

Respectfully submitted by:

Greg Miller
Manager, Building & Building/CBO

David Finbow
Director, Planning & Building
Services

Sharon Long

From: Greg Miller
Sent: April 28, 2010 3:18 PM
To: Sharon Long
Subject: FW: Noise By-Law Extension

From: Lindsay Ayers (BMR) [mailto:layers@bluemountain.ca]
Sent: April 13, 2010 9:28 AM
To: Greg Miller
Cc: Angela Carson (BMR); Katie Sleep (BMR)
Subject: Noise By-Law Extension

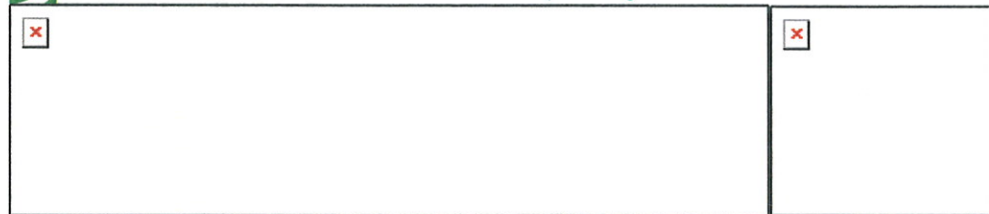
Good morning Greg,
Thanks for getting back to me so quickly. The night we require the noise by-law extension for is Saturday May 15, 2010. The event will take place indoors in the Monterra tennis dome at the Village Conference Centre (VCC). As you know, the VCC falls under the Village noise by-law exemption (11PM) and we are requesting a 1-hour extension until 12:00AM. I understand that this request is to accommodate a musical performance scheduled for the Liberal Party's annual conference.

Hopefully this represents all the information you require. I have copied Angela Carson on this email as she is the Conference Event Manager overseeing this function. If you require any additional information, please do not hesitate to contact Angela directly or myself.

Thanks again for helping us out with this. Have a great week off next week!
Lindsay

Lindsay Ayers | Planning & Environmental Specialist | Blue Mountain Resorts Limited
190 Mountain Drive, Blue Mountains, ON, L9Y 3Z2
(t) 705-445-0231 x.6611 | (f) 705-445-8437 | layers@bluemountain.ca

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B.

CORPORATION OF THE TOWN OF THE BLUE MOUNTAINS

BY-LAW 2002 – 9

Office Consolidation
(By-laws 2002-60 & 2004-16)

Being a By-law to prohibit or regulate noises within the municipality likely to disturb.

WHEREAS Section 210 (138) of the *Municipal Act*, chap. M.45, R.S.O. 1990 and amendments thereto enables the councils of local municipalities to pass by-laws for prohibition or regulation within the municipality of noises likely to disturb the inhabitants;

AND WHEREAS section 61 of the *Provincial Offences Act*, chap. P.33, R.S.O. 1990 and amendments thereto provides for a general maximum penalty upon conviction not to exceed \$5,000.00;

AND WHEREAS it is deemed expedient to pass a by-law for the prohibition or regulation of noise within the municipality in a format that would allow enforcement by both a Municipal Law Enforcement Officer and the Ontario Provincial Police;

NOW THEREFORE the Council of the Corporation of the Town of The Blue Mountains hereby enacts as follows:

1. THAT no person shall make noise or cause noise to be made or permit noise to be made that would be likely to disturb the inhabitants of the municipality.
2. THAT for the purposes of Section 1, the following noises or sounds, among others, shall be deemed likely to disturb the inhabitants of the municipality:
 - (a) The sound or noise from, or created by, any radio, television, phonograph, or any other electronic device, or any musical or sound producing instrument of whatsoever kind when such radio, television, phonograph, device or instrument is played or operated in such a manner or with such volume likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel, or any other type of residence.
 - (b) The yelling, shouting, hooting, whistling, singing, or any other sound made by an individual in such a manner which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence.
 - (c) The operation of construction vehicles or the act of construction between the hours of 19:00 hours of any weekday to 07:00 hours of the next weekday save and except Saturday from 08:00 hours to 13:00 hours which is likely to disturb the peace, quiet, comfort or repose of any other inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, unless written permission to specifically extend or alter the hereinbefore mentioned time periods has been given in writing by Council.

- (d) The sound from the operation of any powered or non-powered tool, for domestic purposes (other than snow removal) which is operated in such a manner likely to disturb the peace, quiet, comfort or repose of any inhabitant within, or having quiet enjoyment of the lands upon which is located, any dwelling unit, apartment building, hotel, motel or any other type of residence, between the hours of 23:00 hours of one day to 07:00 hours of the next day (09:00 hours on Sundays).
- (e) The persistent noise made by any domestic pet, or any animals kept for commercial purposes, likely to disturb the peace, quiet, comfort, or repose of any inhabitant in the same building or in the neighbourhood, at any time.
- (f) The grating, grinding, rattling noise or any other noise caused by a condition of disrepair or maladjustment of any motor vehicle or other vehicle whatsoever or part or accessory thereof likely to disturb the peace, quiet, comfort or repose of any other inhabitant within the municipality.

3. THAT this By-law does not affect:

- a) Any bona fide agricultural use or practice engaged in by a bona fide farmer or employee thereof.
- b) The operation of snow-making machinery or snow-grooming vehicles.
- c) The operation of snow-removal equipment.
- d) Noises or sounds authorized by the municipality. (By-law No. 2002-60)
- e) Noises or sounds related to the non-residential use of land that is permitted by a by-law enacted by the municipality pursuant to Section 34 of the *Planning Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- f) Noises or sounds related to the non-residential use of land that is permitted pursuant to the regulations made under the *Niagara Escarpment Planning And Development Act* between the hours of 07:00 hours and 19:00 hours. (By-law 2002-60)
- g) Noises or sounds authorized by the Blue Mountain Village Association originating within the "Village at Blue Mountain" (Parts 1-40, 16R-7451) between the hours of 07:00 hours and 23:00 hours. (By-law No. 2002-60)
- h) Noises or sounds related to the use of lands known as Part of Lot 5 and Part of Lot 6, Concession 8, Roll No.: 7-046-02, by the Blue Ridge Sportsmen's Club Inc. between the hours of 08:00 and 21:00 on any day, subject to any Provincial or Federal Statute or Regulation with regard to the discharge of firearms and/or weapons. (By-law 2004-16)

4. THAT every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a penalty as provided in the *Provincial Offences Act*.

5. THAT should any section, clause or provision of this By-law be declared by a court of a competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or in part hereof, other than the part which was declared to be invalid.

6. THAT Township of Collingwood By-laws No. 92-28, 95-37 and 96-9, Town of Thornbury By-law No. 20A-1983 and Town of The Blue Mountain By-law No. 2000-44 are hereby rescinded and repealed.

Read a first and second time this 28 day of January, 2002.

Read a third time and passed this 28 day of January, 2002

.....
Ross Arthur, Mayor

.....
Stephen Keast, Clerk

C.

Sharon Long

From: Angela Carson (BMR) [acarson@bluemountain.ca]
Sent: April 28, 2010 4:10 PM
To: Greg Miller
Cc: Lindsay Ayers (BMR); Katie Sleep (BMR); Sharon Long
Subject: RE: Noise By-Law Extension - Ontario Liberal Party Conference

Angela Carson | Conference Event Manager | Blue Mountain Resorts Limited
242 Jozo Weider Blvd, Blue Mountains, ON L9Y 3Z2
(t) 705.445.0231 x 6247 | (f) 705.445.8647 | acarson@bluemountain.ca

From: Marg Fairley (BMT) [mailto:MFairley@intrawest.com]
Sent: Wednesday, April 28, 2010 4:01 PM
To: Angela Carson (BMR)
Subject: RE: Noise By-Law Extension - Ontario Liberal Party Conference

Hi Angela,

Yes, you have the Blue Mountain Village Association approval to apply for an hour extension to the Town of The Blue Mountains noise by-law for May 15th. Please let me know if you anything further from the BMVA.

Best regards,

Marg Fairley,
**Mgr, Administration &
Member Services**
Blue Mountain Village Association
796455 Grey Rd 19, Unit 2
Blue Mountains, ON L9Y 0N8
Telephone 705-445-0231 x 7058
Fax 705-443-5547
Email mfairley@intrawest.com
Website www.villageatblue.com

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