



STAFF REPORT

Title: Noise Concerns - 5321 55 Street (Cold Lake South)

Meeting Date: July 11, 2023

Executive Summary:

Mr. Mark Bourgeois of 5221-53 Avenue attended Council's regular meeting of June 13, 2023 and raised a question regarding the noise generated by the operation of the Legends Bar located at 5321 55 Street. Administration can confirm that it has received a number of concerns regarding the business.

Administration is recommending that Council direct administration provide a letter of acknowledgement to Mr. Mark Bourgeois of 5221-53 Avenue regarding the noise concerns raised.

Background:

Administration has received a number of concerns from members of the public regarding noise related to the operation of the Legends Bar, located at 5321 55 Street. The concerns are primarily received from one resident and have been investigated by Municipal Enforcement.

Land Use Bylaw Considerations

Reviewing the City's property files, Administration determined that Legends has been operating at this location since 1988 (formerly as Legends Western Bar and Club Paradise). The oldest Land Use Bylaw available, from 2003, indicated that at that time the zoning of the property was C2-Arterial Commercial, the same as it is under the current Land Use Bylaw No. 766-LU-23.

It is Administration's understanding that Legends was closed to the public for several periods, first due to a water leak that involved a prolonged closure while dealing with the resulting insurance claim and repairs, and then again for several periods during 2020-2022 due to COVID-19 restrictions. During both of these closures the owners of Legends maintained a valid business licence and liquor licence for the location.

Per the Land Use Bylaw, the use of a building or property is considered to be discontinued if the use of the building or property ceases for a period of six (6) consecutive months or more. In such cases, a new development permit is required in order for the use of the building or property to resume in accordance with the regulations of the current Land Use Bylaw. Typically, Administration would consider the use of a property discontinued if the



business has ceased operation, inclusive of cancelling or a lapse of the business licence, and the property has been vacated.

In the case of Legends, Administration did not consider the use of the property discontinued per the Land Use Bylaw, as both closures were due to circumstances beyond the control of the business, the property continued to be maintained for its intended use as a bar, and the owners continued to maintain a valid business licence during the periods that the business was closed to the public. Additionally, the City does not regulate the hours that a business may open to clients, nor specify any minimum period of time that a business must be open to the public.

Administration has been in contact with the owner of Legends Bar & Event Centre, who informed Administration of their efforts to be good neighbors and corporate citizens including:

- Embracing law enforcement authorities and welcoming all members of the community
- Keeping the area including streets and parking lots safe and clean
- Efforts on or about 2018 to reduce sound that leaves the building including full renovation (improving outward sound cancelation by at least 50%) including
 - New roof structures including much more insulation;
 - Gutted the entire interior right to the studs, and doubled the insulation in every wall;
 - Reconfigured the entire floorplan which now puts the music and dancefloor in the back of the bar, which is in the center of the whole Plaza building vs before having the music and dancefloor next to the entrance doors, exit doors, patio door; all on the exterior wall.

Despite these efforts, in 2018/2019 Legends received a Noise Violation Ticket resulting from a complaint. The ticket was ultimately discontinued due to temporary closures.

The owner displayed a sense of frustration with one (1) of the individuals raising the complaints against his business. These frustrations seem to stem from misinformation.

Recent Noise Complaints

After several temporary closures of Legends due to COVID19, Legends recently reopened fully to the public. Over the last several months, there has been more than a dozen noise complaints received by Municipal Enforcement related to Legends. These complaints are primarily from one individual.



Bylaw No. 534-PL-14, Noise and Public Nuisance Bylaw regulates noise and nuisance within the City of Cold Lake. Section 9.3, 9.4 and 9.5 relate specifically to noise from a business:

9.3. No person or business shall cause or permit any bell, chime, signal, music, or similar device meant to advertise or draw attention to the business to be used in a loud, unnecessary, or unusual manner which is likely to disturb the peace or safety of the inhabitants or of other businesses located within the City.

9.4. No person or business shall cause or permit any loud, unnecessary, or unusual music to be played from within the business during the Quiet Hours, which is likely to disturb the peace or safety of the inhabitants of the City.

9.5. Nothing in this bylaw shall prevent loud noises associated with the normal and continual operation of a business or activity within an industrial area, regardless of whether the noise generated occurs during the Quiet Hours.

Additionally, there are regulation related to noise in residential areas:

8.1. No person shall cause or permit any loud, unnecessary, or unusual noise within a residential area during Quiet Hours.

8.2. No property owner shall allow their property to be used for making loud, unnecessary, or unusual noise within a residential area during Quiet Hours.

8.3. No person shall cause or permit any music, musical instrument, television, or sound amplification device to be played in a loud, unnecessary, or unusual manner within a residential area, or from a residential building, during Quiet Hours.

In response to the concerns regarding the noise, Municipal Enforcement has conducted a noise survey on several occasions throughout the month of June. The surveys were conducted randomly, at a variety of times (for example at 10:15-10:45PM; 11:20PM-12:00AM; and 2:15-2:40AM on the save night and additionally, noise readings were conducted at the time complaints were received by Municipal Enforcement. The noise surveys were conducted at a variety of locations around Legends including – at the entrance to Legends, in the No Frills parking lot, at the FCSS building, and at the complainant's residence.



For example, on one of the evenings surveyed the following results were obtained:

- During the initial survey, the average decibel reading at the complainant's residence was 67 dB with a maximum of 78 dB – it was noted that the maximum readings were observed when a vehicle would drive past;
- During the resurvey the average reading was 54 dB, with a maximum of 54.9 dB
- During the final survey the average reading was 65 dB with a maximum of 69 dB

For comparison purposes, 60 dB is considered to be equivalent to the volume of a normal conversation, while 80 dB is approximate to a ringing telephone.

Administration must advise that the above, is not an acoustical engineering study.

It was noted that the complainant provided conflicting information to Officers throughout the investigation and it seemed that the loudest noises were from conversations and/or vehicles in the parking lot of the Legends location.

At no time during the specific investigations did the noise readings results provide readings indicative of excessive noise. With that said, “excessive” noise is open to interpretation of which no fines or orders have been issue by the City of Cold Lake = Municipal Enforcement, at this time. Administration confirms that Municipal Enforcement will continue to monitor and respond to complaints in the area.

It is understood that resident(s) raising the complaint against the business will not support this report and will continue to be frustrated. With that, Council can direct administration to bring amendment options for Bylaw No. 534-PL-14, Noise and Public Nuisance Bylaw to be restrictive and defined for enforcement throughout the community.

Alternatives:

Council may consider the following options:

- Direct Administration to bring amendments options for Bylaw No. 534-PL-14, Noise and Public Nuisance Bylaw to a Corporate Priorities Committee meeting for further discussion.
- Direct Administration provide a letter of acknowledgement to Mr. Mark Bourgeois of 5221-53 Avenue regarding the noise concerns raised at the Legends Bar located at 5321 55 Street.

Recommended Action:

That Council direct Administration to provide a letter of acknowledgement to Mr. Mark Bourgeois of 5221-53 Avenue regarding the noise concerns raised at the Legends Bar located at 5321 55 Street.



Budget Implications (Yes or No):

No

Submitted by:

Kevin Nagoya, Chief Administrative Officer