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CITY OF VANCOUVER

Law Office

City Hall,

February 26-1938.

Fred Howlett, Esq.,
City Clerk,
City Hall.

Dear Sir:

*Spec. file in top
front in cabinet
re Oriental Question*

re: Licensing of Orientals.

I am instructed that the following recommendation of the City Properties, Licenses and Claims Committee was on the 21st instant laid on the table pending a report from me on the proposal contained therein: "Recommended that no additional licenses be issued to Orientals without first being approved by the City Properties, Licenses and Claims Committee".

Upon the plain reading of this recommendation there can be no doubt that it is intended to discriminate against Orientals as such. The principle of law is well established that municipalities cannot so discriminate. As long ago as 1888 Sir Matthew Begbie, Chief Justice of British Columbia, directed a mandamus against the City of Victoria to compel the renewal to a Chinese of his license as a pawnbroker in that City. The Council had ordered the collector to issue no pawnbroking license to any Chinamen. The Judge held it to be a general principle that every person living under the protection of British law has a right to exercise his industry and ability in any trade or calling he may select. Since Chief Justice Begbie's decision that principle has been frequently re-asserted.

I gather that Alderman Wilson in moving the resolution suggested that certain areas of the City might be set apart and that licenses might be refused to Orientals except in the areas so set aside. The result would be, as I understand it, that licenses to Japanese would be issued only to those carrying on business in the Japanese quarter, and similarly with other applicants of Oriental origin. I am of the opinion that this also amounts to discrimination and that any attempt to pass a by-law which would have the effect of refusing trades licenses to Orientals except in stipulated areas, could be successfully attacked in the Courts.

In a case which went to the Privy Council from Toronto the City Council had sought by by-law to prohibit pedlars from plying their trade in certain parts of the City. The power of the City of Toronto (as is the case in Vancouver) was to license and regulate. Their Lordships of the Privy Council held that such a by-law amounted to prohibition so far as the areas in question were concerned and could not be upheld as being merely regulation.

There remains to be considered the possibility of dealing with this matter under subsection (144) of section 163 of the Charter which reads as follows:

"(144) Provided that the granting or refusing a license to any person, or the cancellation, revocation, or suspension of any license granted to any person, to carry on a particular trade, calling, business or occupation under any of the powers herein contained shall be deemed to be in the discretion of the Council, and the Council shall not be bound to state any reason for the granting or refusing, cancellation, revocation or suspension of any

(Cont'd. on Page 2)

Re Licensing of Orientals2

"such license, and the granting or refusing, cancellation, revocation or suspension of any such license may be done and exercised by resolution or by-law of the Council."

This subsection seems to enable the Council to accomplish the desired result by refusing every license to an Oriental and declining to give any reason for so doing. I am of the opinion, however, that if the Council deliberately embarked on a policy of that kind with the intention of uniformly refusing licenses to Orientals a means could be found whereby the Courts would interfere to prevent it. The subsection is a useful one and has frequently been employed in individual cases but should not be made the means of justifying a blanket refusal of licenses to a whole group of merchants on racial grounds. Dealing with a similar discretion an eminent English Judge said:

"When it is said that something is to be done within the discretion of the authorities, that something is to be done according to the rules of reason and justice. It is to be not arbitrary but legal and regular, and it must be exercised within the limit to which an honest man competent to the discharge of his office ought to confine himself."

I have to report then that the proposed resolution referring in terms to Orientals will amount to discrimination and hence will be illegal. The proposal to refuse licenses to Orientals except in certain areas would amount to prohibition in the rest of the City and would likewise be illegal. As to subsection (144) of section 163 of the Charter, I strongly recommend against any attempt to make use of it to bring about a general refusal to Orientals of licenses which at the same time are being granted to others.

Yours truly,

(Sgd) D.E. McTaggart,

Corporation Counsel.

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(D R A F T)
(MARCH 30-38)

H. L. Keenleyside, Esq.,
Chairman
Board of Review,
Canadian Immigration Office,
Vancouver, B.C.

Dear Sir:

Referring to our attendance before the Board on the 24th ultimo and to your letter of the same date asking that the information in our possession be put together in the form of a brief for the consideration of your Board, we set out below some of the more important matters which have come to our attention:

1. School matters in Richmond municipality.
2. School matters in the City of Vancouver, particularly Strathcona school.
3. The fishermen's case.
4. The license situation in the City of Vancouver.
5. Oriental labour in farming and other industries in British Columbia.

We deal with each of these matters more fully below:

1. School matters in the municipality of Richmond:

Out of a total enrollment of 1801 students in the municipality of Richmond in 1937 there were 607 Japanese. The average annual cost to the municipality of Richmond for the education of each student amounted to approximately \$35.54

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last year. The annual cost to the municipality for the education of these 607 Japanese students amounted to approximately \$21,548.00.

The total school taxes paid by the Japanese apart from poll taxes amounted in 1937 to \$1771.00. The Japanese also made a voluntary contribution to the School Board of \$2500.00 last year. The Japanese population of the municipality therefore made a total contribution towards the cost of education of \$4271.00, whereas the cost of educating the Japanese students amounted to \$21,548.00 as stated above.

In conjunction with these figures must be taken into consideration the fact that the number of Japanese in this district is increasing, the Japanese population of Lulu Island having increased from 1929 to 2811 in the decade from 1921 to 1931.

Attached hereto is a letter from the Clerk of the Municipal Council of Richmond and the Financial Statement of the Municipality of Richmond giving further particulars with respect to the cost of education in the municipality, particularly with respect to the Oriental population.

2. School Matters in the City of Vancouver

Although the total enrollment in Vancouver schools has only increased from 37,812 in 1929 to 38,881 in 1937 the Japanese enrollment during the same period has increased from 1386 in the school term 1928-29 to 2199 in the school year 1936-37. This represents an increase from 3.5% of the total school enrollment in the first mentioned year to 5.5% of the total enrollment in the last mentioned

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year. In Strathcona School during the enrollment period from September 7-1937 to November 30-1937 out of a total enrollment of 80 new pupils 12 were Chinese and 7 were Japanese.

Attached hereto are two statements issued by the School Board of Vancouver showing the origin of new pupils enrolling in Vancouver schools and the percentage oriental enrollment.

3. The Fishing Industry in British Columbia

The Japanese are making inroads into the fishing industry in British Columbia particularly in and around the town of Steveston on the Fraser River where the majority of Gill net fishermen are of Japanese origin. As an illustration of the situation in this regard we would cite the case of Jack Alder a fisherman of this district whose affidavit is attached hereto.

4. The License situation in the City of Vancouver

There has been a large increase in the number of City licenses held by Orientals in the City of Vancouver in the last ten years, the number of Chinese license holders having increased from 478 in 1927 to 644 in 1937 and the number of Japanese license holders having increased from 459 to 795 during the same period.

Attached hereto are two statements prepaid by the License Inspector showing the licenses held by orientals in

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1927 and 1937 segregated according to the business carried on.

5. Oriental competition in the British Columbia labor market is becoming increasingly important, particularly in market gardening and farming and also in various other industries in British Columbia oriental labor has practically supplanted white in the production of the potato crop in the Fraser Delta. As evidence of this situation the affidavit of Clive Arthur Hoggard, a farmer on Sea Island is attached hereto. We would also like to submit for your consideration a "Report on Oriental Activities within the Province" (of British Columbia) prepared for the Legislative Assembly in 1927. This report is supplemented by more recent figures in certain instances.

We should also like to submit for your perusal and careful consideration a series of articles on this problem prepared by Mr. Bruce Hutchison, the well known journalist, in which he gives a carefully prepared resume of the situation based on the figures obtained by Dr. W. A. Carrothers, the distinguished British Columbia economist and statistician, after a long period of scientific research and investigation carried on by Dr. Carrothers in recent years in preparation for the compilation of statistics to appear in a comprehensive book on the subject which is to be published this year. The conclusions reached by Dr. Carrothers as summarized in Mr. Hutchison's articles are based on the scientific application of data obtained by proper statistical procedure. Dr. Carrothers

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is an outstanding economist who has given years of study to this problem and the material that he has gathered and the conclusions he has reached are more accurate and authoritative than any casual observations we might make from the fragmentary information and isolated instances that have happened to come to our attention.

The foregoing and the material attached hereto are respectfully submitted in the hope that it will be of some assistance to you in obtaining a proper understanding of the oriental problem in British Columbia today.

Yours truly,

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LICENSED ORIENTALS IN THE CITY OF VANCOUVER - YEAR 1937.

CLASSIFICATION	Total No. of 1937 Licenses	JAPANESE		CHINESE		% of Orientals to Total
		No.	% to Total	No.	% to Total	
Apartments	888	15	1.689	1	.113	1.802
Auto Garages	39	1	2.564	2	5.128	7.692
Auto Repairers	208	9	4.327	8	3.846	8.173
Bakeries	107	1	.935	1	.935	1.870
Barbers	325	39	12.000	21	6.462	18.462
Beauty Parlours	216	4	1.852	2	.926	2.778
Bath Parlours Plain	58	(7)	29.310	(3)	6.896	36.206
Bath Parlours Massage	38	(10)	2.632	(3)	7.895	10.527
Billiard & Pool Parlors	23	1	4.348	-	-	4.348
Bicycles	14	4	28.571	-	-	28.571
Boat Builders	77	3	3.896	7	9.091	12.987
Boot & Shoe Dealers	190	8	4.211	4	2.105	6.316
Boot & Shoe Repairers	172	1	.581	-	-	.581
Brokers	150	6	4.000	3	2.000	6.000
Business Offices		1	-	-	-	-
Bottlers of Aerated Waters	290	2	.670	9	3.103	3.773
Butchers		-	-	2	-	-
Cabarets	818	80	9.780	16	1.956	11.736
Candy	230	115	50.000	8	3.478	53.478
Cleaners & Dyers	83	44	53.012	-	-	53.012
Dressmakers	90	9	10.000	9	10.000	20.000
Drygoods	107	1	.935	2	1.869	2.804
Electricians	45	18	40.000	2	4.444	44.444
Fish Dealers	112	2	1.786	2	1.786	3.572
Florists	117	8	6.838	1	.855	7.693
Fuel Dealers	52	1	1.923	-	-	1.923
Furniture	26	-	-	2	7.692	7.692
Furriers	126	2	1.587	3	2.381	3.968
Gents Clothiers	152	21	13.816	118	77.632	91.448
Greengrocers	691	110	15.919	27	3.907	19.826
Grocers	68	2	2.941	1	1.471	4.412
Hardware	70	2	2.857	1	1.429	4.286
Insurance Agents	67	7	10.448	6	8.955	19.403
Jewellers	127	2	1.575	1	.787	2.362
Ladies Wear	42	1	2.381	26	61.905	64.286
Laundries	48	3	6.250	40	83.333	89.583
Laundry Offices	1537	129	8.393	11	.716	9.109
Lodging Houses	264	11	4.167	3	1.136	5.303
Manufacturers	52	1	1.923	-	-	1.923
Musical Instruments	562	4	.890	1	.534	1.424
Miscellaneous	51	3	5.882	1	1.961	7.843
Photographers	110	4	3.636	3	2.727	6.363
Printers & Publishers	21	1	4.762	7	33.333	38.095
Poultry	425	32	7.529	47	11.059	18.588
Restaurants	944	14	1.483	18	1.907	3.390
Retail Miscellaneous	142	4	2.817	5	3.521	6.338
Second Hand Dealers	33	3	9.091	-	-	9.091
Schools (Business & Trade)	808	1	.481	2	.962	1.443
Stationery & Books	49	1	2.641	1	2.041	4.082
Sheet Metal Works	23	1	4.348	-	-	4.348
Shipping Agents	98	7	7.143	22	22.449	29.592
Tailors	35	-	-	2	5.714	5.714
Theatres	26	1	3.846	2	7.692	11.538
Watch Repairers	1040	23	2.212	44	4.231	6.443
Wholesale Dealers	283	6	2.120	3	1.060	3.180
Auto Taxis	630	10	1.587	6	.952	2.539
Express & Dray	291	4	1.375	157	53.951	55.326
Hawkers & Peddlers		-	-	-	-	-
		795		644		

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CITY OF VANCOUVER

License OFFICE

CITY HALL
Nov. 14th, 1938.

Alderman H. Wilson,
CITY HALL.

Dear Sir:-

Enclosed herewith please find statement showing the number of new licenses and transfers as from March 14th last, as requested by you.

Yours very truly,

H. A. Harguhart

LICENSE INSPECTOR.

EML.

WHEREAS the Trade License Board Act was in force in this province from 1928 until 1936;

AND WHEREAS under the said Act provision was made for the setting up for the City of Vancouver of a Trade License Board with full authority to issue, transfer, renew or cancel any commercial licenses;

AND WHEREAS broad discretionary powers were given to such Board as to the refusal of licenses on grounds of the public interest having in view (amongst other questions) the zoning of certain streets for certain businesses, the condition of the licensee's premises, the source of supply from a health or sanitary standpoint of the goods which he offered for sale, the character or physical condition of the licensee as regards fitness for the business from a health or sanitary standpoint and the inability or failure of the licensee to keep proper books.

This Act was repealed in the year 1936 and is not now in force in this province although many of its provisions would be most useful to the City of Vancouver at the present time.

THEREFORE BE IT RESOLVED that the Provincial Legislature be asked to reenact the said Trade License Board Act at its present session and that copies of this resolution be forwarded to the City's representatives at Victoria.

(Nov.24/1938)

LIVING QUARTERS AT REAR OF STORE.

Building By-law 2445, adopted 1st Dec. 1937.

Section 522.

Where living quarters are placed at the rear of any such building, such living quarters shall conform to the regulations of the Zoning By-law, and shall be separated from the store portion by a partition extending from the floor to the ceiling; sanitary conveniences shall be installed in accordance with the regulations of Part 28 of this By-law.

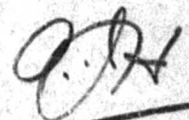
Subsection 3 of Section 375.

In One Family, Two Family, and Multiple Dwellings, or in living quarters placed in any commercial building, direct access to a toilet room shall not be obtained from a kitchen, living room or bedroom; provided however, that additional toilet rooms may be permitted adjoining any room, other than a kitchen, for the convenience of the occupants of such rooms only.

Zoning By-law 2074, adopted 17th November, 1930.

Subsection 7 of Section 16.

Where dwellings are erected at the rear of stores or other commercial or industrial quarters to a greater depth than one room, side and rear yards shall be provided in accordance with the provisions of Subsections 5 and 6 of Section 8 relating to multiple dwellings.

A handwritten signature, possibly "P. H.", is written in the bottom right corner of the page.