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RETAIL BUSINESS HOLIDAYS ACT APPLICATIONS FOR EXEMPTION

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council consider the applications from Vaughan Mills and Neamsby Investments Inc. (on behalf of the Kennedy & Denison Shopping Centre) and determine whether to grant an exemption from the *Retail Business Holidays Act* to allow these businesses to remain open on holidays.
2. The Regional Solicitor be directed to prepare the necessary by-laws to give effect to the exemptions, if granted by Council.

2. PURPOSE

The purpose of this report is to advise Council of applications for exemption from the *Retail Business Holidays Act* to allow Vaughan Mills and the Kennedy & Denison Shopping Centre to be open on statutory holidays.

3. BACKGROUND

The *Retail Business Holidays Act* (the “Act”) requires businesses to be closed on statutory holidays unless they are exempted. The holidays to which the Act applies are:

- New Year’s Day
- Good Friday
- Easter Sunday
- Victoria Day
- Canada Day
- Labour Day
- Thanksgiving Day
- Christmas Day

It should be noted that the Act does not apply to the Civic Holiday in August, and therefore exemptions are not required for that day.

The Act sets out statutory exemptions for certain types of business and also provides that Regional Council may permit businesses to remain open for the maintenance or development of tourism. A public meeting must be held to consider the applications.

Notice of the public meeting has been advertised in accordance with the Act.

The following applications have been received:

Municipality	Business	Requested Dates	Hours
Vaughan	Vaughan Mills 1 Bass Pro Mills Drive Vaughan	New Year's Day Victoria Day, Canada Day, Labour Day, Thanksgiving Day	12:00 p.m. to 5:00 p.m. 10:00 a.m. to 6:00 p.m.
Markham	Kennedy & Denison Shopping Centre (Neamsby Investments Inc.) 1661 Denison Street Markham	All Holidays	8:00 a.m. to 12:00 a.m

A copy of each application is appended to this report (Attachments 1 and 2).

4. ANALYSIS AND OPTIONS

4.1 Compliance with the Act

The Act provides that Regional Council may permit retail business establishments to open on holidays for the maintenance or development of tourism. The Region of York actively promotes tourism as part of its economic development strategy. Tourism contributes over \$450 million to the Region's economy and brings in over two million visitors to the Region.

A by-law may be passed only if there is compliance with the tourism criteria set out in the Regulation. In addition, even if the tourism criteria are met, Council is not required to pass the by-law but may exercise its discretion to refuse the application.

4.2 Tourism Criteria

The Regulation sets out the criteria that must be met before Regional Council may pass an exempting by-law. A copy of the applicable Regulation is appended to this report (Attachment 3).

Section 2 of the Regulation provides that a business can be exempted if:

- it is located within two kilometres of a tourist attraction; and
- it is directly associated with the tourist attraction or relies on tourists visiting the attraction for business on a holiday.

Vaughan Mills

The application for Vaughan Mills is supported by promotional material advertising its grand opening in November 2004. The application states that it will be one of the largest shopping and entertainment centres in the Region and a destination for millions of Canadian, American and overseas consumers. The facility will have a full-time Tourism Director in charge of tourism marketing.

Kennedy & Denison Shopping Centre

The application for the Kennedy & Denison Shopping Centre states that it is a multi-cultural business establishment located close to the Market Village at 4350 Steeles Avenue East, and the Pacific Mall located at 4300 Steeles Avenue East. Pacific Mall was previously granted an exemption under the Act on January 18, 2001.

4.3 Enactment of By-law

Should Council decide to grant the exemptions, the by-law will come into force on the thirty-first day after it is enacted, in this case December 19, 2004. This is to allow for the possibility of an appeal which may be made within thirty days after the passing of the by-law by any person who objects to the exemption. An appeal may only be made if an exemption is granted. There is no provision for an applicant to appeal if an exemption has been denied.

It is open to Council to grant the exemption as requested, or to make amendments to the permitted days or hours of business.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications to the Region as a result of these applications.

6. LOCAL MUNICIPAL IMPACT

Approval of an exemption under the *Retail Business Holidays Act* is intended to contribute to tourism in a particular location, in this case in the City of Vaughan and the Town of Markham.

7. CONCLUSION

Applications have been received from Vaughan Mills and the Kennedy & Denison Shopping Centre requesting an exemption from the *Retail Business Holidays Act* to permit these businesses to remain open on certain holidays. The exemptions would allow the businesses to remain open on the requested days for the balance of 2004 and in future years.

Regional Council is respectfully requested to review these applications and determine whether to enact an exempting by-law, with due consideration to the criteria set out in the Act and Regulation.

If Council elects to pass a by-law, the by-law will come into effect on December 19, 2004.

(The attachments referred to in this clause are attached to this report.)