

THE REGIONAL MUNICIPALITY OF YORK

**REPORT NO. 1
OF THE REGIONAL SOLICITOR**

**For Consideration by
The Council of The Regional Municipality of York
on October 18, 2007**

**1
RETAIL BUSINESS HOLIDAYS ACT
APPLICATION FOR EXEMPTION**

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council consider the application from Leon's Furniture Limited and determine whether to grant an exemption from the *Retail Business Holidays Act* to allow Leon's to remain open on holidays.
2. The Regional Solicitor be directed to prepare the necessary by-law to give effect to the exemption, if granted by Council.

2. PURPOSE

The purpose of this report is to advise Council of an application for exemption from the *Retail Business Holidays Act* to allow Leon's Furniture Limited ("Leon's") 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 businesses 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 application has been received:

Municipality	Business	Requested Dates	Hours
Vaughan	Leon's Furniture Limited 299 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.

A copy of the application is appended to this report (Attachment 1).

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 \$200 million to the Region's economy and brings in almost three 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 2).

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.

Leon's takes the position that it complies with the tourism criteria. Leon's is part of the same major development as Vaughan Mills. Vaughan Mills is located at 1 Bass Pro Mills Drive and is one of the largest shopping and entertainment centres in the Region. Vaughan Mills was granted exemption by Regional Council on November 18, 2004, pursuant to By-law No. LI-0008(i)-2004-086. A copy of By-law No. LI-0008(i)-2004-086 is attached to this report (Attachment 3). Leon's has requested to be open during the same holidays and times as the Vaughan Mills Shopping Centre.

Canada's Wonderland is an outdoor recreational tourist attraction located within two kilometres of Leon's.

Both Vaughan Mills and Canada's Wonderland attract tourists from Canada, the USA and overseas.

4.3 Enactment of By-law

Should Council decide to grant the exemption, the by-law will come into force on the thirty-first day after it is enacted, in this case November 19, 2007. 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.

4.4 Amendments to the *Municipal Act, 2001*

Recent amendments to the *Municipal Act, 2001* would permit the Region to directly regulate holiday closings for retail businesses. The relevant sections have not yet been proclaimed in force, however, and no date for proclamation has been announced. Upon proclamation, the Region would be empowered to enact a by-law to govern holiday closings that would supersede the *Retail Business Holidays Act*. This could enable the Region to develop criteria that may not be strictly limited to tourism. Staff await Council's direction as to whether this alternative should be pursued.

5. FINANCIAL IMPLICATIONS

There are no direct financial implications to the Region as a result of this application.

6. LOCAL MUNICIPAL IMPACT

Approval of an exemption under the Act is intended to contribute to tourism in a particular location, in this case in the City of Vaughan.

7. CONCLUSION

An Application has been received from Leon's requesting an exemption from the Act to permit Leon's to remain open on certain holidays. The exemptions would allow Leon's to remain open on the requested holidays.

Regional Council is respectfully requested to review this application 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 November 19, 2007.

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

Respectfully submitted,

**October 18, 2007
Newmarket, Ontario**

**J. Hulton
Regional Solicitor**

(Report No. 1 of the Regional Solicitor was deferred to the November 15, 2007 Regional Council meeting, by Regional Council at its meeting held on October 18, 2007.)