

**STAFF REPORT TO THE CAPITAL REGIONAL DISTRICT
HEALTH FACILITIES PLANNING COMMITTEE
WEDNESDAY, JULY 20, 2005**

SUBJECT

AMENDMENT TO CAPITAL REGIONAL DISTRICT CLEAN AIR BYLAW NO. 2401

BACKGROUND

The Capital Regional District (CRD) Clean Air Bylaw No. 2401, which prohibits smoking in all indoor public places within the Capital Regional District, has been in effect since January 1, 1999. In all public places in the CRD, the bylaw requirements mean that smokers must go outside to smoke.

In regard to tobacco consumption, the CRD Bylaw was created with a commitment to keeping the playing field level amongst the hospitality industry facilities in the Region.

As discussions and negotiations took place around the 100% smoke-free bylaw, it was made clear to the CRD Board that maintaining a level playing field was a condition necessary for the support of the largest group of hospitality industry businesses affected by the bylaw – restaurant owners and operators. By regulating that every establishment – no matter what size or license category – had to ask its patrons to smoke only outside, a level playing field was maintained. The bylaw neutralized smoking as a potential competitive factor amongst establishments in the industry.

DISCUSSION

During May 2005 Ipsos Reid conducted a public opinion poll, and found awareness of the Bylaw is 99% and support for the Bylaw is 90%. Inspections of business premises shows compliance with the Clean Air Bylaw is exceptional when only the indoor portion of the business is taken into consideration. However, there is some confusion amongst a few businesses as to what constitutes an outside area or a patio.

During the course of the past six years the vast majority of business owners have made the commitment to comply with the Bylaw as it was written – and smoking has become an outside activity. Nevertheless, a small minority of businesses have used very creative techniques to construct or erect areas for their customers who smoke, which are by and large almost fully enclosed spaces.

The apparent confusion surrounding the interpretation of the Bylaw is not wide spread, but does undermine the level playing field concept that was established with the creation of the Bylaw.

Moreover, responsible business owners have asked that we provide a definition of what constitutes the “inside” or “enclosed” portion of the business to simplify compliance.

RECOMMENDATION

That the Health Facilities Committee recommend to the Capital Regional District Board, sitting as the Local Board of Health, approval of the proposed amendment to Capital Regional District Clean Air Bylaw No.2401.

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