

Date March 9, 2000



TO: Board Members - Parks and Recreation
FROM: General Manager - Parks and Recreation
SUBJECT: BUSKING AT ENGLISH BAY

That the Board approve a by-law to amend the Parks By-Law with respect to the regulation of entertainment in parks.

POLICY

Performance in parks or on beaches is subject to the following Parks By-Laws:

- 4.(a-i) Except with the permission of the Board, no person shall, in any park, sell, offer to sell, or expose for sale any food, beverage, or article or thing of any kind;
- (a-ii) Except with the permission of the Board, no person shall, in any park, provide or offer to provide for a fee any service.
- 4.(b) The General Manager, a Peace Officer or any person employed by them or him, may remove or cause to be removed from any park any article or thing as aforementioned contrary to the provisions of this by-law at the expense of the owner, contractor or other person responsible for such article or thing; and the General Manager is hereby empowered to do every lawful act required under the circumstances to have any such article or thing removed in the shortest possible time and to hold any article or thing as above mentioned until the expense of the removal thereof has been paid.
- 8.(a) No person shall take part in any procession, drill march, performance, ceremony, concert, gathering or meeting in or on any park or driveway unless with the written permission of the General Manager first had and obtained.
- (b) No person shall make a public address or demonstration or do any other thing likely to cause a public gathering or attract public attention in any park without the written permission of the General Manager first had and obtained.
- (c) No person shall operate any amplifying system or loud speaker in any park without the written permission of the General Manager first had and obtained.
- 10. No person shall conduct himself in a disorderly or offensive manner, . . . or obstruct the

free use of the park or place by any other person, or violate any by-law, rule, regulation, notice or command of the Board, the General Manager, Peace Officer, or any other person in control of or maintaining, superintending, or supervising any park of or under the custody, control and management of the Board; and any person conducting himself as aforesaid may be removed or otherwise dealt with as in this by-law provided.

BACKGROUND

In April 1998, the Board approved participating, on a trial basis, in the City's newly established busking program. The permits were intended to regulate activity through a set of guidelines. Under this program, most parks were not contemplated as busking sites. Two sites for those who purchased busking permits from the City were established in each of English Bay and Kitsilano Beach Park. In addition, several free busking locations were designated in parks for performers who do not buy permits.

Busking in English Bay has generated two years of continuing conflict between some residents and the performers. The Board received comments and petitions covering a range of perspectives on busking from full support by residents and park users to strong opposition from both groups.

Staff tried to manage this activity through the bike patrol and the pilot park ranger program. This was not successful as some buskers refused to modify their performance to limit the impact on park neighbours. Police were reluctant to respond because, in part, of the vagueness of the by-laws and the consequent difficulty in prosecuting. The City Legal Department advised that related by-laws are ambiguous as regards busking activity and therefore difficult to prosecute. Law drafted a by-law specific to the activity associated with busking. (Appendix 1)

On May 17, 1999, the Board met with residents, park users and buskers to look for common ground in the hope of finding a workable situation that would accommodate all interests. The Board requested at that time that Vancouver Richmond Health Board monitor sound volume from within residences and for staff to work with a committee of residents, park users and buskers to find ways and means to resolve the problem.

DISCUSSION

The Vancouver Richmond Health Board was asked to monitor noise levels. This was done twice, first to measure ambient levels when no buskers were playing and once when there were buskers. This did not provide conclusive findings and Environmental Health staff have advised Park Board staff on the qualitative nature of noise or how different types of noises affect people differently. This makes it difficult to define what constitutes objectionable noise only by measuring noise volume. Meaningful noise measurements are difficult to obtain in some circumstances and cannot be uniformly applied to transient sound sources. Health Board staff have indicated that two sections of the City's Noise Control By-law specifically address noise problems that cannot effectively be remedied by use of sound level measurement. Section 3 states that "No person shall

make or cause or permit to be made or caused, any noise or sound in a street, park or similar public place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity". Sections 4 (a) and (b) specify the noises and sounds in this category (sounds coming from a gathering where human voices are raised beyond the level of ordinary conversation, radio, public address systems, or any other music or voice amplification, or musical instrument whether recorded or live).

Staff convened and met twice with a committee of residents, park users, buskers and police to identify and find solutions to the issues raised about busking. Residents commented that noise volume related to amplification, crowds, and chainsaw was disruptive to normal home activity. Performers sometimes blocked paths for park users and performances often went past 10:00 p.m. Some buskers used fire as part of their show and this was a potential safety concern to Board staff. Some residents and park users supported busking in the area. All members of this group had clear and strongly held perspectives on the issue.

Initially, all members of this committee were willing to look for compromise to allow busking to continue. Following the initial meeting, the problems associated with busking continued as before and the possibility of an acceptable compromise diminished. Police expressed concerns that allowing regulated busking requires subjective judgement by the Police who are called on to enforce regulations and they advised that this subjectivity creates difficulties.

The issue of whether juggling fire presents a risk to the public and the potential for damage to park land was explored. Staff believe that in controlled and supervised conditions such as at some of the permitted festivals on parks it is an acceptable risk. However, at English Bay, without continuous supervision, staff are unable to monitor safety by ensuring adequate separation of the fire from the public, that fire extinguishers are present at all times and that safe methods for storage and disposal of fuel are in place. Furthermore, the Fire department requires that a permit be obtained to light a fire in the open air and this is difficult to enforce. It is therefore a condition of performing that no fires be permitted.

From a park planning perspective, the English Bay Beach Park corridor has always functioned, and continues to function, as a gateway to Stanley Park. The corridor is relatively narrow for the high volume of pedestrian traffic using it year round. Over the last ten years, the Board has invested resources to better manage traffic circulation, notably the bike route which separates pedestrian from cyclists and skaters.

Any activity that occurs in this corridor can create a barrier to traffic flow. Busking gathers people in a way that can block walkways from Beach Avenue to the seawall and force people to move around the activity area disrupting the east-west flow of traffic. Such disruptions cause safety concerns for the elderly and for people with disabilities. Normal beach traffic which adds to the issue of cross circulation patterns especially in the summer was anticipated in the bike route design but busking was not.

For these reasons, as well as the distress for the immediate park neighbours, it is critical that buskers operate within a concise set of performance conditions.

Conditions have been developed which address the main concerns expressed. (Appendix 2) Parks will no longer be included in the City's permitting program. Park Board staff will notify buskers of the conditions for performing in the area. Signage will also indicate that conditions apply to performance and the conditions will be posted in the area. All other parks including Kitsilano will become free busking areas and staff will monitor for problems.

It must be noted that to continue to allow regulated busking will require greater staff resources than to designate the area as a no busking zone and have the police deal with enforcement. It will require the presence of staff on a daily basis in warm weather to notify buskers of the conditions and monitor compliance. Resources to monitor summer park activity are limited but, within this framework, staff will attempt to provide sufficient coverage to this area.

The question of busking is a complex one and it has been difficult to find a compromise solution to polarized perspectives. What is provided in this report is less an answer to the problem than an attempt to find a rational approach to the issue.

CONCLUSION

While busking on English Bay continues to give pleasure to many, it also has a negative impact on the lives of nearby residents. It is staff's intention to achieve compliance with the conditions attached. In the event that this fails, it is staff's intention to exercise the power of the by-law and to request that the General Manager designate the area between the bath house and the Park Board office as an area in which entertainment is not allowed.

Prepared by:
Stanley District
Board of Parks & Recreation
Vancouver, B.C.
SG/sg
Attachment

Appendix 1

**BOARD OF PARKS AND RECREATION
OF THE CITY OF VANCOUVER**

A By-law to amend
the "Parks Control By-law",
being a By-law enacted by the
Board of Parks and Recreation

THE BOARD OF PARKS AND RECREATION, in open meeting
assembled, enacts as follows:

1. Section 8 of the Parks Control By-law is amended by adding
the following:

"(g) No person shall sing, play a musical instrument, or
otherwise perform or provide entertainment in any area of a
park which has been designated by the General Manager as an
area in which entertainment is not allowed."

2. This By-law comes into force and takes effect on the date of its
passing.

DONE AND PASSED by the Board of Parks and Recreation this
day of _____, 2000.

Chair

General Manager

Conditions for Busking on Park Board Land

- 1) Only two performances can take place in one park at one time. Performers must cooperate with fellow performers.
- 2) Performances must be limited to 60 minutes.
- 3) Sidewalks, paths, bicycle routes and park roads must not be blocked by either performers or their audiences.
- 4) The comfort or safety of others must not be jeopardized. The wishes of nearby residents and visitors must be respected particularly in regards to loudness of performance.
- 5) In the interest of public safety, the use of sharp or dangerous objects is prohibited. This includes juggling knives, hatchets, chainsaws or flaming objects.
- 6) Performers must co-operate immediately with the request of any member of the Police Department or the Park Board.
- 7) Musicians are permitted to sell recordings of their original work during their performance. No other sales are permitted.
- 8) Amplification is not permitted in parks without the written permission of the General Manager.
- 9) No performing is permitted after 10 p.m.

Failure to comply with the above guidelines will result in closure of the English Bay area for busking.

The Park Board retains the right to change or amend these conditions at its own discretion. Notwithstanding any of the above conditions, all Park Board by-laws apply.