

# Town fails again to convict Yugoslavs on noise charges

For the second time since last summer Halton Hills has failed to convict some of the owners of the Yugoslav recreation centre south of Acton on Highway 25 of municipal noise bylaw violations.

The town and police laid charges under the noise bylaw against Nick Cajic and Nedjelko Obrovic for several Sundays in July and August last summer as well as again in December. Neighbors on the Third Line called police repeatedly as well as petitioned the municipality to put a stop to continued Sundays filled with loud music and public address announcements coming from the large picnic grounds which were packed with Yugoslavians almost every week.

After Justice of the Peace B.P. McDermott dismissed charges in Milton provincial court Thursday both Cajic and Obrovic pledged changes will be made for this summer at the recreation centre in the hopes of not disturbing neighbors.

In November Cajic was acquitted on two of four noise bylaw charges he was facing when the court ruled while there had definitely been a noise bylaw violation the town had failed to establish that Cajic was in control of the centre and responsible for the problem.

The town lost again Thursday for the same reason.

Following the dismissal of the charges Halton Hills solicitor Tom Anderson, who prosecuted the case, and Bylaw Enforcement Officer Jack Lusty declined to comment. Lusty said a report will go to council and it will assess municipal options to halt the noise problem.

Cajic and Obrovic said they were pleased with the decision despite the fact the various Yugoslavian groups had been required to fund two court battles.

They both felt their groups must solve the noise problem, and finding a solution rests not just with them, but all of the groups and people who use the centre on Sundays.

Their lawyer, Jack Walinga, suggested the noise is being carried to the Third Line on prevailing westerly winds so moving the stage and speakers may solve the problem. Cajic added the groups are planning action, but must raise some funds, which hasn't been made any easier because the court actions have set back their financial resources for investing in development of the property.

At the outset of the trial Justice of the Peace McDermott ruled one charge against Cajic wouldn't be heard because it was among the two which were withdrawn by the town in the November trial after the municipality had lost on two counts. He ruled the prosecution shouldn't have withdrawn the charges at that time because they had insufficient evidence on hand, but requested a stay of proceedings.

To relay a charge which had previously been withdrawn before the court was an "abuse of process," Justice of the Peace McDermott said.

Cajic and Obrovic were tried for offenses on July 5 and July 12 respectively in which they allegedly permitted the playing of musical instruments and amplified announcements at such a volume as likely to annoy and disturb the peace, comfort and repose of residents living on the Third Line. Both men pleaded not guilty.

The first witness to testify, Lusty said, he had received many complaints from residents and so had conducted a search at the registry office to determine who the owners of the property were and discovered Cajic and Obrovic are two of six people named as "grantees." He also stated Cajic was president of one of the groups which owns the recreation centre.

In answer to a question from Walinga, Lusty said he didn't know how much of a share each of the six trustees have or who they hold the property for.

Lusty said there is no policy regarding how the town handles bylaw violations and noted a warning is not a requirement. He recalled discussing the noise problem with Cajic several times, but rejected Walinga's suggestion that he had said he would have the July 5 charge dropped if the defendant made an effort to remedy the problem. Lusty pointed out he couldn't withdraw the charge because it was laid by the police.

Halton Regional Police officer Keith Woudstra testified on July 5 he was called to the home of Gerald Brockelsby around 5 p.m. because of the noise and then went to the Yugoslav Centre and asked who was in charge. Cajic stepped forward and identified himself as the person in charge, the officer told the court, and while there wasn't loud music playing then he advised the defendant of the noise complaint and asked that the amplifiers be turned down. The officer also suggested the speakers be moved and Cajic said he would take care of the noise problem, Woudstra testified.

Around 7 p.m. he was called by the Brockelsbys again and advised the noise was again quite loud, but the officer couldn't go to the Yugoslav Centre then. He also said he didn't know if Cajic was still at

the centre at that time. The next day, after talking to more Third Line residents he laid the charge. Woudstra said the volume of noise he heard when he was on the Third Line would have "upset" him if he lived there.

He admitted he talked to nobody but Cajic at the centre and didn't ask about the band he saw either packing up after a show or unpacking to play or inquire who owned the sound equipment.

Another policeman, Alex Fishbien, told the court he went to a Third Line residence to investigate a noise complaint on July 12 and later attended at the Yugoslav Centre. When he was on the Third Line he could hear loud and "disturbing" music and announcements coming from the south-west, where the centre is located.

While at the centre he heard the same type of music being played as he heard on the Third Line and he was approached by Obrovic who said he was one of the organizers. The defendant, the officer said, indicated he was willing to do something about the noise and the policeman suggested the volume had been reduced, although he didn't see who turned it down. He took Obrovic to the Third Line in the cruiser and informed him the noise wasn't "too bad" now. Like Woudstra, Fishbien didn't speak to the band.

## Seek zoning change for Main St. office

The town has received an application for a zoning change on Main St. North.

The amendment has been requested by Damian and Dana Nikic and they want a zoning change for a piece of property from residential to commercial for an office. The building is on the east side of Main about midway between Mill and St. Alban's.

A staff report noting the application was received by Halton Hills council Monday.

## No objection to application Wooden Heart liquor licence

Halton Hills council has no objection to the Wooden Heart Restaurant's application for a new liquor licence. A date for a public hearing on the application will be announced later.

A Third Line resident, Dr. Sam Ng, said on both July 5 and July 12 there was loud music and announcements which started after noon and continued fairly steadily into the evening. He said his family had to stay indoors because the noise was so "annoying."

Another Third Line resident, William McArthur said he couldn't work in his garden on either date in July because of the loud noise while a neighbor, Toni Court, said she had to go inside her home because of the noise. Walinga asked her if she knew neighbors of the Yugoslav Centre on Highway 25 and she stated she didn't. Walinga noted the Highway 25 residents are closer to the bandshell where the music and announcements are broadcast than those living on the Third Line.

Melody Stewart said the noise on July 5 could even be heard inside the house and Gwen Johnson described the sounds as "blaring noises."

With the conclusion of witnesses, Walinga moved charges against Obrovic be dismissed, claiming there was no evidence he had caused or permitted the noise. He added the bylaw says the noise must disturb people inside their homes, something none of them said about July 12. However, Justice of the Peace McDermott and Anderson later corrected him that Brockelsby had trouble hearing his tele-

vision on both dates.

Walinga also asked the charge against Cajic be dismissed since there was no evidence he was in charge at the time the noise was being made.

Anderson countered that when police went to the centre both Cajic and Obrovic had identified themselves as being in charge. He said they had the rights as owners to control what was happening on their property.

Justice of the Peace McDermott said the court had experience with regard to what permit meant and noted the town would have difficulty convicting anyone for the noise on July 5 since there was no direct evidence that anyone at the centre was in charge when the noise was loud. He noted the land might have even been rented or leased to someone else on either day, so the owners wouldn't be responsible, there was just no evidence on that matter. He noted when the officer was there on July 5 there was no noise and there was no evidence of when Cajic arrived or left the centre. The police also hadn't found out who hired the band and was controlling the speakers. He said in both cases the police should have made many more inquiries.

He said he hoped the Yugoslavs would make some efforts to solve the noise problem and appease the neighbors. He warned if "they" keep laying charges they'll eventually do everything right and obtain a conviction and then the owners of the centre will face a new kind of problem.

Brockelsby and the other Third Line residents offered no comment on future action or the outcome of the case.

## Accident on Church

A two-car collision on Eastern Ave. at the intersection of Church St. resulted in about \$1,300 damage to both vehicles involved.

A car driven by David W. Bell, 21, of Acton, was eastbound on Church St. when it struck a second vehicle in the Eastern Ave. intersection, according to Halton Regional Police reports. The second vehicle was driven by 26-year-old John F. Gilkes of Hamilton.

## Taxes....

(Continued from page 1)

emergency lighting system at Acton Community Centre; \$90,500, \$37,500 from the province, for Lakeview storm sewers work; \$233,000, \$113,000 from Queen's Park, for the start of storm sewer and road reconstruction in Glenlea; \$1,064,200, \$532,100 from the province, for Fourth Line reconstruction; \$9,500 for a new fire chief's car; \$12,000 for purchase of an air compressor and air purifier; \$278,200 for 14 trucks and pieces of equipment for the works department; \$176,000, \$101,000 from the town budget, for purchase of property and building a parking lot in downtown Acton; Prospect Park renovations will cost \$4,000, \$1,000 from the province; construction of a new softball diamond in Acton is pegged at \$10,000, \$2,500 from the province; new lights at Prospect Park ball diamond will cost \$8,000, \$2,000 from Queen's Park; \$8,000 is for a creative playground at the new St. Joseph's School, \$2,000 in subsidy, \$2,500 will be spent for a wheelchair ramp at Acton Community Centre, of which the town only pays \$625; new tables and chairs for the rink hall will cost \$2,000, \$500 in subsidy; and an arena fire alarm will cost \$2,500, \$625 from the province.

Budget cuts included: \$1,000 for benefits-part-time for fire department staff and \$500 for conventions, seminars and education; \$15,000 for a footbridge and path in Bovis park; \$1,800 for converting the Acton arena to gas heat; \$5,501 for new windows and frames at Acton arena; and \$2,900 for the Poplar Ave. park which won't be built.



Mrs. Y. Obrigavitch a secretary at St. Joseph's School registers Jamie Wallace for next year's enrollment as Jamie's mother Stella looks on.

## BIA budget \$20,000

The Acton Business Improvement Area board of management plans to spend \$20,000 this year.

Monday Halton Hills council received the 1982 BIA budget and the treasurer was directed to add the cost to the business mill rate for the affected area.

The BIA plans to spend \$5,000 on street maintenance, \$5,000 on parking lot reconstruction, \$2,000 on a flea market, \$6,000 for Leathertown shopping bags and \$2,000 on miscellaneous expenditures.

## Volunteer Week April 18-24

Volunteer Week will be April 18-24 in Halton Hills. Council passed the proclamation Monday night.



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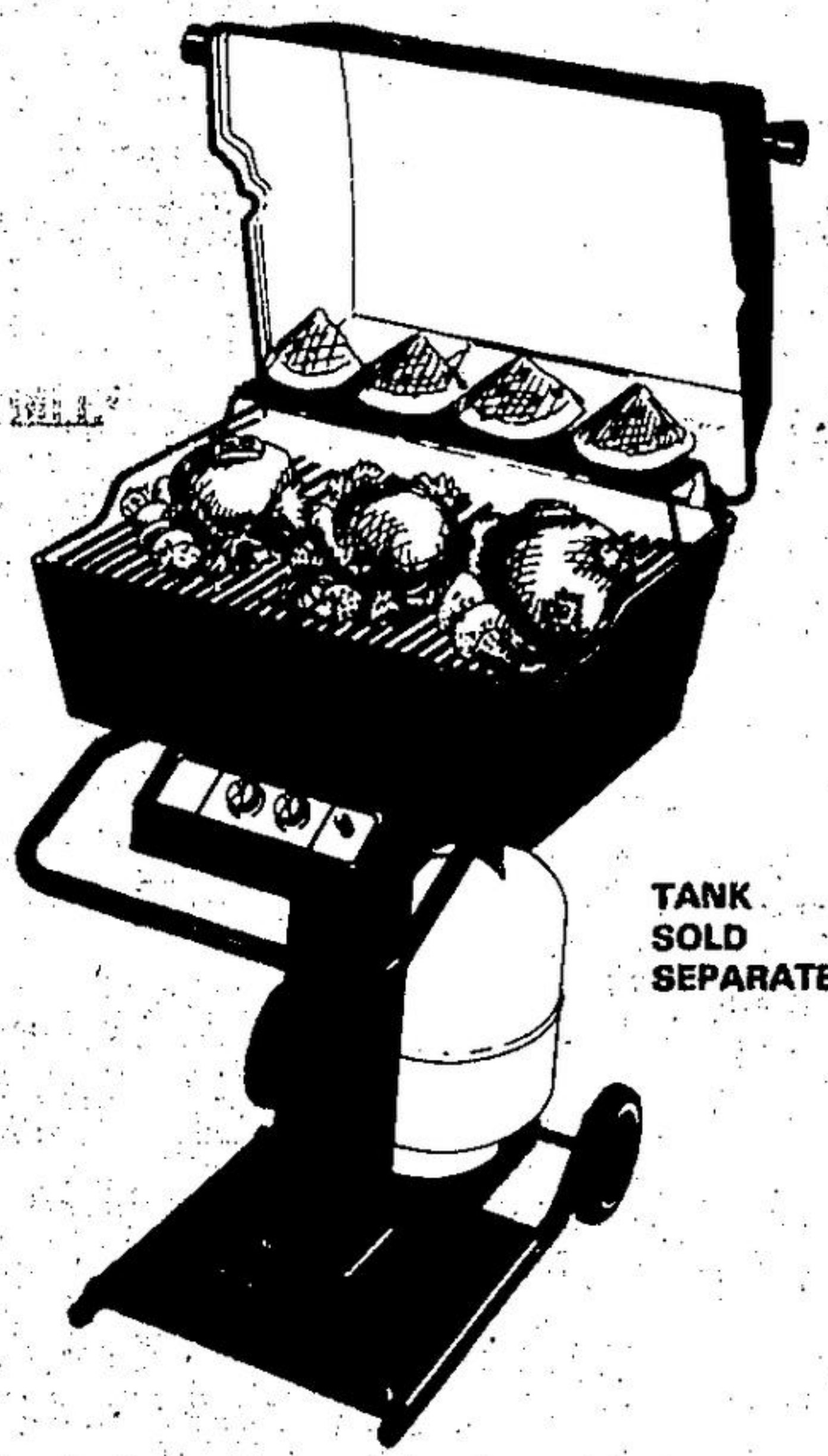
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