

Harcourt rapped



—Don Scott photo

TONY SERKA . . . a federal problem

Mayor Mike Harcourt is misinformed or doesn't understand the issues involved in the prostitution problem, criminal lawyer Tony Serka, who represented Debra Hutt in a landmark Supreme Court of Canada decision, said Thursday.

"I think the mayor, in statements regarding pressing and persistent behavior, shows he's not getting correct legal advice regarding the law or he doesn't understand the issues involved," Serka said from his office in Vancouver.

He said an upcoming civic election and possible federal election this year may "completely explain" recent statements by Harcourt and Justice Minister Mark MacGuigan on the recurring prostitution problem in Vancouver.

On Tuesday, Harcourt said the justice minister's latest proposals to curb prostitution don't go far enough.

The minister announced plans to revive legislation that would allow police to charge customers as well as prostitutes with soliciting and expand the definition of a public place to include cars.

The mayor said the changes don't deal with the difficulty police have proving a prostitute was "pressing or persistent" in attracting a customer.

"Four prostitutes would have to drag a fellow into a back alley and put a half-nelson on him before it's considered pressing and persistent," Harcourt said.

Serka said: "When he (Harcourt)

says it takes four prostitutes to drag a person into an alley before it's considered pressing, of course, I think he's being facetious, but he's giving an impression to people that prostitutes have to be really persistent. That's a counterfeit explanation of the law."

The Hutt decision, reached in February 1978 in Canada's highest court, ruled Vancouver woman Debra Hutt, who entered a plainclothes officer's unmarked car and was arrested for soliciting, did not — by accepting the unspoken invitation — fit the legal definition of soliciting.

The court ruled prostitutes must be "pressing or persistent" in soliciting. Hutt was acquitted and Don Winter-ton, Vancouver's police chief then, declared the ruling would make it difficult to convict prostitutes of soliciting.

Serka said politicians and police have since complained they are "hamstrung" by federal legislation in dealing with prostitutes.

"They keep saying they can't get a conviction, but they haven't tried for so long," he said.

Serka said customers seeking prostitutes can be charged in some provinces, specifically in Ontario since 1978.

But the B.C. Court of Appeal ruled in 1978 that a customer cannot be found liable under soliciting legislation in the Criminal Code, Serka said.