



# COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

## AGENDA

January 23, 2014 – Churchill Building

9:30 a.m.  
12 noon

Call to Order  
Adjournment

### MEMBERS

T. Caterina, S. McKeen, M. Oshry

ITEM		ACTION
<b>1.</b>	<b>CALL TO ORDER AND RELATED BUSINESS</b>	
1.1	Call to Order	
1.2	<a href="#">Adoption of Minutes</a>	See Minutes
	<ul style="list-style-type: none"> <li>November 8, 2013, Community Standards and Licence Appeal Committee meeting minutes</li> </ul>	
<b>2.</b>	<b>EXPLANATION OF APPEAL HEARING PROCESS</b>	
<b>3.</b>	<b>COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS</b>	
3.1	<a href="#">Appeal of Order - C. P., 11339 - 70 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>.</a>	Withdrawn
3.2	<a href="#">Appeal of Order - B. M., 12204 - 113 Avenue NW, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i>.</a>	Postponement Request
3.3	<a href="#">Appeal of Decision to Cancel Business Licence 102751290-005 issued to 1694838 Alberta Ltd. o/a New York Pizza and Donair</a>	Action
3.4	<a href="#">Appeal of Order - B. B., 184 Humberstone Road NW, Edmonton, Alberta, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i>.</a>	Withdrawn
3.5	<a href="#">Appeal of Order - Condominium Corporation No. 1024320, 10617 - 107 Street NW, Edmonton, Alberta, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i></a>	Action
3.6	<a href="#">Appeal of Order - Cockralls Auto Body Ltd., 11744 - 96 Street NW, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i>.</a>	Withdrawn

ITEM		ACTION
4.	ADJOURNMENT	

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**COMMUNITY STANDARDS AND  
LICENCE APPEAL COMMITTEE**

**MINUTES**

**November 8, 2013 – Churchill Building**

**PRESENT**

T. Caterina, S. McKeen, B. Anderson

**ALSO IN ATTENDANCE**

S. McDonald, Office of the City Clerk  
C. Ashmore, Law Branch  
J. Rose, Office of the City Clerk

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3.	<b>COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS</b>	<b>4</b>	See Minutes
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3.2	<b>Appeal of Order 142077296-001 – B.B. and E.B., 9104 – 89 Street NW, Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i></b>	<b>5</b>	Withdrawn
3.3	<b>Appeal of Order 141301263-001 – B.Y. and E.S., 62, 451 Hyndman Crescent NW, Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i></b>	<b>5</b>	Withdrawn
3.4	<b>Appeal of Order 143126167-001 – G.G., 2326 - 28A Avenue NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the <i>Municipal Government Act</i></b>	<b>5</b>	Withdrawn
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3.6	<b>Appeal of Order 142840272-001 – Phidelco Limited, 10942 - 87 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i></b>	<b>6</b>	Withdrawn

3.7	Appeal of Order 144026970-001 – B.R.M., 12204 – 113 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the <i>Municipal Government Act</i>	Withdrawn
4.	ADJOURNMENT	

**DECISION SUMMARY**

ITEM		DECISION
1.	<b>CALL TO ORDER AND RELATED BUSINESS</b>	
1.1	<b>Call to Order</b>	

S. McDonald, Office of the City Clerk, called the meeting to order at 9:32 am.

**Election of Chair**

S. McDonald, Office of the City Clerk, called for nominations for the position of Chair, Community Standards and Licence Appeal Committee.

Councillor B. Anderson nominated Councillor T. Caterina for the position of Chair, Community Standards and Licence Appeal Committee.

S. McDonald, Office of the City Clerk, asked if there were any further nominations. There being none, S. McDonald, declared the nominations closed.

**Moved B. Anderson:**

That Councillor T. Caterina be elected as Chair, Community Standards and Licence Appeal Committee.

**In Favour:**

T. Caterina, S. McKeen, B. Anderson

**Carried**

S. McDonald, Office of the City Clerk, vacated the Chair and Councillor Caterina presided.

**Election of Vice-Chair**

Councillor T. Caterina called for nominations for the position of Vice-Chair, Community Standards and Licence Appeal Committee.

Councillor B. Anderson nominated S. McKeen for the

position of Vice-Chair, Community Standards and Licence Appeal Committee.

**Moved B. Anderson:**

That Councillor S. McKeen be elected as Vice-Chair, Community Standards and Licence Appeal Committee.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

The Committee suggested that item 3.5 on the agenda be heard before item 3.1.

**Moved B. Anderson:**

That item 3.5 on the agenda be heard before item 3.1.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

**1.2 Adoption of Minutes**

**Moved S. McKeen:**

That the September 5, 2013 Community Standards and Licence Appeal Committee meeting minutes be adopted.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

**2. EXPLANATION OF APPEAL HEARING PROCESS**

Councillor Caterina explained the appeal hearing process and asked if anyone objected to any Member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

**3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS**

**3.5 Appeal of Order 142761172-001 – H.S., 9718 -78 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act**

H.S., Appellant, made a presentation and answered the Committee's questions.

T. Courtoreille, Community Standards and Licence Appeal

Committee, made a presentation and answered the Committee's questions.

Two sets of photographs taken on August 21, 2013 and November 7, 2013 were provided to the Appellant, Members of the Committee and the Office of the City Clerk.

Administration confirmed that a Notice to Comply was issued on August 21, 2013 and the Order with ticket was issued on September 6, 2013.

H.S., Appellant, made a closing presentation and answered the Committee's questions.

**Moved B. Anderson:**

The Committee varies the order.	Community Services Dept.
You are therefore ordered to:	
Remove the blue Chevrolet vehicle.	<b>Due Date:</b> November 8, 2013

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

3.1

**Appeal of Decision - Refusal to Issue Business Licence  
138687423-001 - 1508974 Alberta Ltd. o/a Asian Filipina  
Fabulous Spa**

Councillor Caterina explained the Licence appeal hearing process and asked if anyone objected to any Member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

Marie Sales and Andrezj Szczepanski, Appellants, Asian Filipina Fabulous Spa, made a presentation and answered the Committee's questions.

Randy Kirillo, decision maker, made a presentation and answered the Committee's questions.

**Moved S. McKeen:**

That the Committee meet in private pursuant to Section 20 of the *Freedom of Information and Protection of Privacy Act*.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

The Committee met in private at 10:44 am

The Committee met in public at 10:56 am

Andrezj Szczepanski, Appellant, made a closing presentation and answered the Committee's questions.

**Moved S. McKeen:**

That the Committee meet in private pursuant to Section 20 of the *Freedom of Information and Protection of Privacy Act*.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

The Committee met in private at 11:04 am

The Committee met in public at 11:19 am

**Moved B. Anderson:**

The Committee denies the appeal and upholds the decision of the Chief Licensing Officer, dated July 30, 2013 to refuse to issue Body Rub Centre Licence 138687423-001 to 1508974 Alberta Ltd o/a Asian Filipina Spa at 17543 - 100 Avenue NW Edmonton.	Sustainable Development Dept.  <b>Due Date:</b> November 8, 2013
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**In Favour:**

**Carried**

T. Caterina, S. McKeen, B. Anderson

3.2

**Appeal of Order 142077296-001 – B.B. and E.B., 9104 - 89 Street NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act**

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the *Community Standards Bylaw 14600*.

3.3

**Appeal of Order 141301263-001 – B.Y. and E.S., 62, 451 Hyndman Crescent NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act**

S. McDonald, Office of the City Clerk, advised the

Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the *Community Standards Bylaw 14600*.

3.4 **Appeal of Order 143126167-001 – G.G., 2326 - 28A AVENUE NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the Municipal Government Act**

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the *Community Standards Bylaw 14600*.

3.6 **Appeal of Order 142840272-001 – Phidelco Limited, 10942 - 87 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act**

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the *Community Standards Bylaw 14600*.

3.7 **Appeal of Order 144026970-001 – B.R.M., 12204 – 113 Avenue NW, Edmonton, AB, Order Pursuant to Section 545(1) of the Municipal Government Act**

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property because it is now in compliance with the *Community Standards Bylaw 14600*.

**4. ADJOURNMENT**

The meeting adjourned at 11:20 am

\_\_\_\_\_  
Chair

\_\_\_\_\_  
City Clerk





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**Appeal of Decision to Cancel Business Licence 102751290-005, issued to 1694838 Alberta Ltd, operating as New York Pizza & Donair, at 9715 – 118 Avenue NW, Edmonton**

**Hearing Date: January 23, 2014**

In dealing with this appeal, the Community Standards and License Appeal Committee (“the Committee”) heard from:

**Appellant:** Mr. Adam Persi, Student at Law, Snyder & Associates,  
Solicitor for the Appellant, Mr. Vimal Iyer, 1694838 Alberta  
Ltd. o/a New York Pizza and Donair

**Respondent:** T. Courtoreille, Community Services Department

**Written Submissions:**

- Record from the Chief Licensing Officer – December 9, 2013.
- Letter from Sheila English, Main Street Law, advising she will no longer be representing 1694838 Alberta Ltd. operating as New York Pizza & Donair – dated December 20, 2013.
- Respondent’s submission dated January 13, 2014.
- E-mail from Marie Hogan, Legal Assistant to A.S. Attia, Barrister and Solicitor (dated January 14, 2014) confirming he is acting for New York Pizza & Donair at the January 23, 2014, hearing.

**Background**

On January 29, 2013, Mr. Garry Dziwenka, Acting Chief Licensing Officer (the “CLO”), issued business license 102751290-005 to the Appellant, 1694838 Alberta Ltd., with twelve conditions.

Mr. Vimal Iyer is the sole shareholder of 1694838 Alberta Ltd.

On February 21, 2013, Mr. Brian Beresh, solicitor for the Appellant, Mr. Iyer, appealed the following five conditions imposed on the business license:

Condition 3: Raja Mohammed (“Mike”) Nazir is prohibited from the premises and any involvement in business operations.



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Condition 4: Safer Nazir is prohibited from the premises and any involvement in business operations.

Condition 6: Thanos Apostolu is prohibited from the premises and any involvement in business operations.

Condition 8: Not operate the business between the hours of 2:00 AM and 10:00 AM.

Condition 12: Refuse entry to persons identified by the Edmonton Police Service who, within the past three years, have been convicted of an indictable criminal offence.

At a hearing of the Community Standards Licence Appeal Committee held on May 9, 2013, Conditions 3, 4, 6 and 8 as listed above were upheld in their entirety. Condition 12 as listed above was struck in its entirety.

For greater clarity, the Committee also varied the following two conditions:

Condition 1, which was worded, "No alcohol is allowed on the premises at any time", is varied to:

"No alcohol is allowed on the premises at any time, and upon Affidavit evidence being presented to the City Manager or his delegate that alcohol was found on the premises, the business license should be suspended forthwith and remain suspended until a review of the Chief Licensing Officer takes place to determine whether the business license should be revoked."

Condition 2, which was worded, "No tobacco products are allowed on the premises at any time, excepting any employees' tobacco products provided they are in amounts consistent with personal use only", is varied to:

"No tobacco products are allowed on the premises at any time, excepting any employees' or customers' tobacco product provided they are in amounts consistent with personal use only. Should Affidavit evidence be presented to the City Manager or his delegate that tobacco was found on the premises that are in amounts not consistent with personal use, the business license should be suspended forthwith, and remain suspended until a review of the



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Chief Licensing Officer takes place to determine whether the business license should be revoked.”

This appeal, heard before the Community Standards and Licence Appeal Committee, is an appeal of a decision of the Chief Licensing Officer, Randy Kirillo, to cancel Business Licence 102751290-005 which is held by 1694838 Alberta Ltd., operated as New York Pizza & Donair.

The basis of the Chief Licensing Officer’s decision is that licence conditions of the June 18, 2013, decision issued by this Committee have been breached.

**A. Preliminary Matters**

1. The Appellant requested a postponement.
2. The Respondent requested the stay be revoked if a postponement was granted.

**Summary of Appellants Position – Preliminary Matters**

A. Persi, Solicitor for the Appellant, confirmed that Sheila English of Main Street Law filed the original appeal of the Decision to Cancel Business Licence 102751290-005 on November 13, 2013. A letter dated December 20, 2013, was received by the Committee on January 7, 2014, advising that Sheila English would no longer be representing the Appellant. Mr. Persi explained the reason Ms. English stepped down is that she is not familiar with these types of appeals. Mr. Persi confirmed his firm was now representing the Appellant.

The Committee had been expecting Mr. A. S. Attia to act as representative for New York Pizza and Donair. Mr. Attia has indicated to the Committee, in an e-mail received on January 14, 2014, that he would be acting for New York Pizza and Donair. Mr. Persi advised that Mr. Iyer had consulted with Mr. Attia but then decided to seek other legal counsel and Mr. Attia was never formally retained.

Mr. Persi was seeking a postponement on the basis that he was only retained on January 21, 2014, (two days ago) and has not had adequate time to prepare for a hearing.



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**Summary of Respondent's Position – Preliminary Matters**

T. Courtoreille, Respondent, opposed the postponement request due to the long history of problems associated with this business and its ownership. He stated that Licence conditions were violated within a short time of the Committee's written decision of June 18, 2013.

Mr. Courtoreille also questioned why Mr. Persi is the fourth attorney representing the Appellant since May, 2013.

Mr. Courtoreille submitted a written request to the Committee to revoke the stay as per Section 10(2) of the *Community Standards Licence Appeal Committee Bylaw*. This request was to be made in the event that a postponement was granted.

*(2) Notwithstanding subsection (1), an interim stay granted pursuant to this bylaw may be revoked by the Committee if a Preliminary Issue Application is received from a party to the appeal and the Committee is satisfied that:*

*(a) there has been a material change in circumstances that warrants revoking the interim stay;*

*(b) the conduct of the appellant warrants revoking the stay*

Mr. Courtoreille felt that revoking the stay was justified given the long history of illegal activities at this location and the risk to public safety. Fines could be levied and a Court order could be obtained to close the business if it continued to operate. There has been no indication that the business would be operated responsibly if allowed to remain open. The decision invoking conditions was issued on June 18, 2013, and Mike and Safeer Nazir were not told until the beginning of December, 2013, to stay away from the business.

**Summary of Appellant's Response – Preliminary Matters**

A short recess was allowed in order that Mr. Persi could consult with his client.

Mr. Persi advised he had received the Respondent's submission dated January 13, 2014, less than half an hour ago. This submission was delivered to Mr. Attia's office on January 14, 2014, even though Mr. Attia had never been retained as



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legal counsel. This should be a consideration when deciding on the Postponement request.

Mr. Persi confirmed that the Appellant opposes revoking the stay.

Mr. Persi advised that Ms. Soni Nayak of Snyder & Associates is handling this matter but due to a scheduling conflict Mr. Persi was asked to deal with the Postponement request.

Mr. Persi advised that the Appellant is trying to sell the business and has had two offers from arms length parties. He later clarified that these were not offers, but simply discussions with people that were potentially interested in purchasing the business. He argued that it would be more difficult to sell a non-functioning business. The Nazirs are no longer an issue as they are no longer welcome or allowed in the business as of the beginning of December, 2013.

**Decision on Preliminary Matter**

The request for postponement is denied.

**Reasons - Councilor Caterina and Councilor Oshry concurring**

The Appellant has requested a postponement since he did not hire a lawyer until January 21, 2014, and he now wants more time to be better prepared for the hearing. His reasoning is that the lawyer that now represents him was hired at the last minute and it would only be fair that additional time be given so that he can be adequately prepared.

The Appellant did have a previous lawyer who filed the appeal and, according to the Appellant, this lawyer stepped down because she was not familiar with these types of appeals. It is important to note that when filing the appeal, the previous lawyer made specific requests for scheduling this hearing to ensure she would be available. At that time she appeared to believe she was competent in filing and running the appeal. Correspondence from the prior lawyer does not indicate a reason for why she is no longer acting.

The Appellant has offered no explanation as to why he waited until the last minute to find another lawyer. There is also no explanation why he did not inform the Committee immediately upon knowing that his other lawyer was stepping aside that he needed to search for one. The new lawyer was apparently retained on January 21, 2014, which was only two days before this hearing. In this



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situation, with the serious issues facing the Appellant, this Committee would have expected that this appeal would be a priority for the Appellant, and finding a new lawyer would have been foremost on his mind. Even assuming that the earliest that the Appellant knew his old lawyer was not acting was December 20, 2013, the date of the letter that was sent to Mr. Courtoreille from the previous lawyer, it was a full month before Mr. Iyer hired a new lawyer, and no explanation was offered for this.

There does not appear to be a lack of lawyers around. This Appellant was represented by Mr. Beresh the first time this matter was heard. The Committee at one point had received notification that Mr. Attia would be coming before the Committee. In other words, there does not appear to be any evidence or reason why the Appellant could not have found a lawyer sooner. While the holiday period may explain part of the problem, the delay is too great for this to be the only explanation.

There is no question that the Appellant has the right to representation. However there has been a revolving door of lawyers on this matter. There is nothing suggesting that the Committee has to grant postponements each time a new lawyer is hired. This is especially the case when he has provided no evidence suggesting when he started to look for a new lawyer, and what issues he had with finding a new lawyer.

The Committee is really left to decide whether this is a delay tactic of some sort.

Related to this, there is also no explanation as to why the Appellant missed his disclosure deadline and how he intends to deal with that issue. Apparently the Appellant believes the postponement would automatically give him a new right to disclose. The Committee will not comment on whether new disclosure would have been allowed since it was not argued, but the failure to file materials in time is a factor in deciding whether this is a tactic.

Further, this is not a case where the postponement would have allowed the Appellant the opportunity to gather additional evidence to disprove the allegations being made against him. In fact, the Appellant agrees that the conditions have been breached and is instead arguing that the breaches have now been rectified. If the Appellant needed time to find additional evidence that was not quickly available to him, and time was needed to disprove allegations against him, a postponement might be warranted. This was not the case presented to us.



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Further the Appellant has known about the issues facing his business since August, 2013, and has known about this hearing since early November, 2013. These are both factors in deciding whether a postponement should be granted. In fact, the CLO already gave one extension to Mr. Iyer to allow him to submit material.

Given the last minute hiring of a lawyer, with no explanation as to why one wasn't hired earlier, the failure to submit any disclosure for this hearing, and the length of time that the complainant knew about this hearing, it would not be in the interests of the public to delay this hearing any further.

While it is tempting to say that a postponement should be granted to ensure that there is no allegation of procedural unfairness, there still needs to be valid reasons for a postponement request, and the reasons that are being presented by the Appellant, either explicitly or implicitly, should not result in a postponement to a validly scheduled hearing. Missing the deadline to submit evidence, failing to find a lawyer in time, and failing to prepare for the hearing in time are all the fault of the Appellant himself. It therefore appears to be the inaction of the Appellant that has caused the postponement request. He has had plenty of time to prepare for the hearing and a last minute hiring of a new lawyer does not change that.

The last argument to be addressed is whether to grant the postponement to allow the business to be sold. This Committee was told that there were a couple of people in talks with the owner. There are no definite offers, and this means that the business might sell next week, or might never sell. There is no reason to grant a postponement because the business *may* one day sell.

If we had granted the postponement, we would have also lifted the stay. Given the acknowledgement that conditions had been breached on this license, and given the nature of the breaches, this would have warranted lifting the stay and suspending the business license until a full hearing took place.

Dissent by Councillor McKeen

I would have granted the postponement and lifted the stay so that the business could not have operated during the period of the postponement. While I agree with the reasons of the other members of the Committee as to why the postponement did not need to be granted, I would have erred on the side of caution to remove any potential challenge that this hearing did not take place in a fair manner. By granting the postponement, the Committee would have eliminated any argument that these proceedings somehow placed the Appellant



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at some disadvantage, and by lifting the stay at the same time, this would have balanced the interests of the public to ensure that there was no way that additional illegal activities could take place at the business.

However, having now heard the entirety of the arguments and evidence, it appears that the Appellant was able to make all the arguments that he wanted to make, so I am not convinced that the failure to grant the postponement created an actual breach of fairness.

**B. Appeal Hearing**

**Issue:**

**Should the Committee uphold the decision of the Chief Licensing Officer?**

Sub-issues:

- Is the Appellant credible?
- Is the fact that the Appellant did not receive the disclosure of the Respondent until this morning sufficient to affect the fairness of the hearing?
- Would the cancellation of the license impact the sale of the business?
- Would the cancellation affect the current employees?
- How should the Committee weigh the lack of evidence of recent problems with the business?
- Should the license be cancelled knowing that the business will be transferred to the wife?
- Are the breaches of the conditions sufficient to cancel the business license?

**Summary of Appellant's Position**

Mr. Persi stated that the Appellant's legal right is being denied because the postponement was not granted. Full disclosure had not been provided prior to today and was sent to a legal counsel who is not representing the Appellant.

The principal concern of the CLO is the detrimental impact the business has had on the surrounding community through the illegal sale of alcohol and other incidents. The City believes the current ownership represents nothing more than a shell for the previous owner.





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These concerns may have been understandable due to the “occasional continued presence” of Mike Nazir. The Appellant was not aware of the continued presence of the Nazirs until a violation ticket was issued in September, 2013. At that time the Appellant fired Nathan Leach, the Director who was allowing the Nazirs to be present and proposed to bring his wife in to convert the business to a non take-out restaurant. All employees not abiding by bylaws would be fired. Before this plan could be implemented the business license was cancelled and the Appellant is now trying to sell to arms length parties. It would not be a continuation of the shell game as the business is not being sold to associates. Mr. Persi then clarified that no shell game had been going on.

The Appellant's first choice is to have his wife operate the business although she has not applied for a new license and is not currently involved in the operation of the business.

The second choice is to sell the business. The Appellant has had three offers to date – the first fell through in December when the purchaser heard of the conditions. The Appellant feels the other two offers will also fall through if the decision to cancel the license is not revoked. Upon questioning Mr. Persi clarified that no written offers have been received – ongoing discussions are occurring. The Appellant wants to continue operating so prospective buyers can see what they are buying.

Either solution – having the Appellant's wife operate the business or selling in an arm's length transaction – will alleviate the Chief Licensing Officer's concerns about the business being a detriment to the surrounding community since:

- The Nazirs would not be involved.
- The Director who was allowing breach of licence conditions, Nathan Leach, has already been fired by the Appellant.
- The Manager, James, who was upholding the licence conditions, is available to stay on.
- The Appellant would remain as a shareholder for a short time.
- There would be a total change in management with new employees, allowing the business to be a good corporate citizen.
- It is against the public interest to close the business as this would result in employees being without a job and an empty premise possibly for months on end.

There was some confusion as to the intent of operating / selling of the business. Mr. Persi advised that the Appellant's wife is not currently involved in the business yet the Respondent's disclosure shows an October 2013 note in which



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the Appellant states "now that my wife is overseeing the business". That same submission indicated "...will be closing business on January 15, 2014". Mr. Persi explained that it was the Appellant's original intention to sell but it is now his intent to let his wife take over.

The intent is to run the business as a restaurant with no delivery service. In 2006 the premises were run as a sit-down restaurant with six tables. It is the intent to remove a wall that had been put up to again make room for a seating area.

### **Summary of Respondent's Submission**

A licence review request was submitted to the Chief Licensing Officer on August 8, 2013. Evidence had been received that the licence conditions had been breached on July 10, 2013, and on several occasions since then. The respondent requested the Committee consider the following:

### **Breaches of Licence Conditions**

- The first breach occurred on July 10, 2013, shortly after the decision enforcing the conditions was issued on June 18, 2013. As a result of a citizen's complaint police spoke to a male inside a taxi at approximately 4:00 a.m. who admitted he had purchased liquor from New York Pizza and Donair. He also purchased food after the 2:00 a.m. curfew. The investigator submitted a sworn affidavit.
- Safeer Nazir and Mike Nazir have been observed working behind the counter by AGLC inspectors on various occasions since June 18, 2013.
- The short time it took to violate conditions indicates there is no intention to take the conditions seriously.

### **Involvement of the Nazirs**

- On September 13, 2013, Mike Nazir attended the Provincial Law Courts to represent 1694838 Alberta Ltd. on bylaw charges. Under oath he confirmed he was the "Operations Manager" and clearly indicated he was still involved in the business operations.
- The Appellant himself admitted that the Nazirs continued to be involved in the business until the beginning of December, 2013.



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### Cancellation of License next logical step

- The conditions imposed on the licence were reasonable given the years of substandard business practices at this location. There have been multiple breaches of conditions. The cancellation of the business license is the next logical step necessary to restore public confidence and resolve problems surrounding the business at this location under Mr. Iyer's ownership.

### Continuation of Illegal Activities

- The licence conditions have had no effect on illegal activities which continue to occur. The Respondent referred to an incident of illegal liquor sales from this location as posted on a social media website on December 25, 2013. The person wished to remain anonymous due to possible repercussions. AGLC inspectors have recently seen empty liquor boxes in the garbage can.

The Respondent feels that not cancelling the licence will erode public confidence in the City of Edmonton's processes and their ability to maintain safe and viable communities. Cancellation of the business licence would have no effect on a new Owner. A business license is not transferable and a new owner would have to make their own application.

The Respondent provided a brief history as to why Mike and Safeer Nazir were banned from the business. A five year investigation took place involving a history of illegal liquor sales. In 2011, plain clothes AGLC officers observed Mr. Mike Nazir purchasing liquor at a north end liquor store and distributing it during the night shift through their 24 hour food delivery service. A raid of the liquor store revealed a private book of funds being paid by the Nazirs (\$75,000 over 3 months). It has been difficult to determine if there is a personal relationship between the Nazirs and the current owner, Mr. Iyer, but the Respondent believes the Nazirs are still involved in New York Pizza and Donair.

The Respondent has spent over 100 man hours on this investigation. He has not been able to dedicate officers to this location during the past two months due to a heavy work load. More than 2,000 snow complaints have been received by his section. The lack of recent evidence is a case of "no one has been looking" due to the lack of manpower.



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The Respondent submitted that the business license would have been revoked at the May 9, 2013, appeal hearing but the Committee did not have the authority to do so under the legislation in place at that time.

### **Summary of Appellant's Response**

- The information posted to "Facebook" should not be considered. This is hearsay twice removed, is not under oath, and the identity of the person posting is not known.
- Since no one has been looking into the business since December 1, 2013, there is no basis to believe that illegal activity is still going on.
- The respondent has placed great evidence on the activities of Mike and Safeer Nazir who are no longer involved in the business. Mr. Iyer had sent Mike Nazir to the September trial just to pay the ticket because Mike had been running the business at the time the ticket had been incurred.
- Mr. Iyer's wife was appointed a Director in October, 2013 replacing Mr. Leach.
- If necessary, Mr. Iyer is willing to transfer the company shares to his wife which would make him completely removed from the business.
- Despite the close husband / wife relationship, Mr. Iyer is not interested in having a hands-on role in the business. It was purchased as an investment and his wife would have total control. When Mr. Leach let him down he appointed his wife as he saw her as someone he could rely on.
- An operating business would continue to enhance the community by operating as a law abiding business and would keep citizens employed.

### **Decision**

The decision of the Chief Licensing Officer is upheld and the Business License is cancelled effective immediately.

Reasons – The entire Committee concurs in these reasons



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**Should the Committee uphold the decision of the Chief Licensing Officer?**

Any analysis starts with the fact that the Appellant has admitted that there have been breaches of the conditions that were placed on his business licence.

Instead of arguing that there were no breaches, the Appellant now focuses on the following claims:

- he is looking to sell the business;
- he is looking to fix the business by appointing his wife as director and manager;
- it is better to keep people employed and have a business operating at this location rather than having people unemployed and with an empty spot where the business was located;
- the breaches are not that significant.

The real question for this Committee is whether the breaches of the conditions are severe enough that the cancellation of the business license is warranted, and whether this Committee believes that the Appellant can operate this business in a way that keeps the criminal element away from the business.

The Committee has no confidence in the Appellant's ability to operate this business in a way that does not risk damage to the public interest.

It is apparent on the face of the Record that there is already a longstanding history of enforcement on this business. This is now the second time that this same business has been before this Committee in less than one year's time under Mr. Iyer's ownership. While, during the prior case, much of the activity that was discussed took place prior to Mr. Iyer's involvement, there was also evidence of problems under Mr. Iyer's watch. In addition, that Committee felt that the change in ownership was really part of a shell game, which was one of the reasons the Committee gave for implementing the conditions.

It is significant that Mr. Iyer does not deny any of the allegations that are now before the CLO and this Committee. In fact, Mr. Iyer acknowledges breaches of the conditions took place. It is therefore not necessary for this Committee to perform an analysis of whether those allegations are true. We can accept them as fact based on the admissions before both this Committee and the CLO.

It is of great concern to this Committee that conditions that were approved by this Committee were essentially ignored, and the business was operated by the owner in such a way that he could attempt to deny responsibility and blame his manager.



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Here, the Appellant claims that it was the director and manager of the business, Mr. Leach, that was the real problem. The Appellant claims that Mr. Leach was put in charge and was relied upon and that ownership should not be punished for his actions. Mr. Leach has now been dismissed and the owner claims that this will solve the problem.

Should a business that is already operating under conditions be able to excuse breaches of those conditions by blaming the director or manager of the business? Should it be enough for an owner to say that he didn't realize the conditions were being breached, and he has changed directors and managers and that will solve the problem?

Especially in a closely held corporation, such as this one with one shareholder, it is not enough for an owner to claim ignorance. While an owner may rely on his managers or directors, he must also take responsibility for what happens at the business. This is especially true in a case where the owner has been put on notice that there are problems, through conditions being placed on the business. So even if this owner really did not know about the breaches of the conditions until after they took place, he should have implemented sufficient measures to ensure that there were no breaches. He failed in that responsibility.

In other words, we will not allow an absentee owner to claim ignorance and blame his managers to avoid responsibility. This is even more serious when the absentee owner had already gone through a hearing process, which was paid for by taxpayer money, that upheld conditions on the business. In other words, this business owner was clearly on notice that he needed to pay attention.

In addition, we are not convinced that Mr. Iyer did not know about the breaches. He obviously knew there was still some connection with Mr. Nazir since he sent him to Court to represent the business. The Committee finds as a fact that this owner knew about some of the breaches as they were occurring. This finding is supported by the Committee's view of the credibility of Mr. Iyer.

### **Is the Appellant credible?**

Given the nature of the allegations, the Committee finds it necessary to consider the credibility of Mr. Iyer prior to cancelling the license. The Committee noted various things when examining the credibility of My Iyer:

- Mr. Iyer sent Mr. Nazir to Court knowing full well Mr. Nazir was prohibited from the premises and was to have nothing to do with the business



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operations. Mr. Iyer had clear knowledge of this breach whether or not his excuse and reasoning for sending Mr. Nazir is true.

- There were breaches of the original conditions less than one month after the original decision. Any normal business owner, with fresh conditions on his business, would not be so negligent to ignore his business so soon after the first decision.
- Representations were made to the CLO that changes had *already* occurred at the business, with the intent to convince the CLO not to cancel the license. Mr. Iyer now states that the changes *never* fully occurred because the license was cancelled.
- Mr. Iyer claims that breaches only occurred while Mr. Leach was in charge at the business. Yet when the letter from the CLO was served on the business, it was Mr. Safeer Nazir who is listed as being the “person in charge” at the business. No explanation was offered for this fact.
- It was apparently not until December, 2013 that Mr. Iyer told the Nazirs to stay away from the business, when he clearly knew about the allegations that the Nazirs were still involved in August, when the CLO letter was provided to the business.

In addition to the above items the testimony and excuses presented by Mr. Iyer were similar to those presented before this Committee last May. When reviewing the decision from May, and listening to the arguments today, the Committee was left with the feeling that the arguments had all been made before, and very little was new.

For example, at the previous Committee hearing the Appellant maintained that new management had already solved the problems and there would be no more issues, that the business model had changed which would mean illegal activities could not occur, that new management would control the involvement of the Nazirs in the business, and that new ownership would supervise the employees more fully. Each of these arguments is similar to what is being presented to us now. He didn't follow through with those promises before, as evidenced by his admission that the conditions were breached, and there is no reason to believe that anything has changed.

We have also taken into account the findings of the prior Committee that the new ownership was a corporate shell game. The continued involvement of the Nazir's after the decision of that Committee adds weight to that finding.

While each individual item above may not have resulted in this Committee questioning the credibility of the Appellant, the combination of so many leads to



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only one conclusion. Mr. Iyer will make whatever claims he believes will result in this Committee allowing him to avoid any consequences for what has taken place.

We now turn our attention to the various arguments made by the Appellant.

**Is the fact that the Appellant did not receive the disclosure of the Respondent until this morning sufficient to affect the fairness of the hearing?**

The first argument of the Appellant is that these hearings are already unfair, and he raises as an example the fact that he was just, that morning, provided with the material that was submitted by the Respondent. It is ironic that he is complaining about not having the disclosure of the Respondent, when he himself has disclosed nothing, and provides no excuse for his failure to do so.

In any event, the material that the Appellant is complaining about was clearly sent to Mr. Attia, who at the time had indicated to this Committee that he was the lawyer for the Appellant. The Appellant now says he never received this information. If the Appellant's interactions with Mr. Attia caused Mr. Attia to believe he was acting, while the Appellant did not think he was, that is the problem of the Appellant, and not of this Committee or the Respondent. Given the findings on the credibility of the Appellant, this Committee does not believe the Appellant when he says he did not know about this submission, and did not know Mr. Attia had the submission.

However, even if the Appellant truly did not know about this submission, given the nature of the information within the submission, there is no prejudice in proceeding today.

The information within the submission of the Respondent is all the same information that was provided to the CLO with two exceptions. The first is Court documentation showing that Raja Mike Nazir appeared in Court on behalf of the corporation on September 12, 2013. Mr. Iyer clearly knew about this event since he admits that he sent Mr. Nazir to Court on that day. If Mr. Nazir knew about the event, there would be no prejudice in not knowing, until today, that it was in the submission of the Respondent.

The second new allegation relates to a social media report about there being liquor available at New York Pizza on Christmas Day. The Committee agrees with the Appellant that no weight should be placed on this information since there is no way to verify the information. As such, it would be irrelevant that the Appellant did not know about this allegation until the day of the hearing, since it is not something that the Committee is relying upon.





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Given the only new accepted allegation in the material presented by the Respondent is something that the Appellant knew about, there is absolutely no harm to the Appellant in having this material before the Committee.

**Would the cancellation of the license impact the sale of the business?**

The Appellant argues that since he is attempting to sell the business, the Committee should not cancel the license. He argues that it would be harder to sell a business with no license, than one with a license.

Really the question of the sale of the business is irrelevant to the true issues before this Committee. While the Appellant suggests that it would be easier to sell an operational business than one that has had its license pulled, this has nothing to do with whether the conduct of the Appellant warrants the revocation of the business license.

This Committee has no jurisdiction to force the sale of the business, and could not put a condition on the business that it be sold. Likewise there is no power to stop the sale of a business. These are powers that are simply not within the authority of the Committee.

If the Committee allowed the business to continue to operate because there was a belief that it was going to be sold, and then the current owner changed his mind, there would be nothing that the Committee could do.

Even if the sale of the business were in the purview of this Committee, the Committee is not convinced that shutting down the business would affect its ability to sell. Businesses of this nature are typically sold on the basis of their financial statements, which show what the business legally earns. Closing the business does not affect the Appellant's ability to demonstrate the earning potential of this business in this fashion. While there might be some aspect of goodwill on the business that is affected by a closure, this can vary from business to business and if a business is notorious or is not a good corporate citizen, the goodwill can actually be valueless or negative. An example of this could be the person that was thinking of buying the business until they heard there were conditions on the license. While we acknowledge that shutting down the business could impact the goodwill, we don't know how much goodwill the business has, or whether the goodwill has any value. In any event, if a closure does affect the sale price by affecting the goodwill, this is ultimately due to the actions of the Appellant in failing to ensure that the conditions were followed. In other words, the Appellant caused his own loss.



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In addition, any new owner of the business would have to apply for a business license. Business licenses are not transferable, and they therefore have no value on their own.

Further, if the Committee had the power to wait for the business to be sold, how long should the Committee wait? We were provided with no evidence that a sale is pending, only that some perspective buyers are kicking the tires. Do we risk additional criminal activity for a month, six months, a year? The answer is there should be no risk of additional criminal activity at this site under the current ownership if the evidence shows that the activities are severe enough to warrant cancellation of the license.

**Would the cancellation affect the current employees?**

The Appellant is absolutely correct that closing a business will result in a loss of jobs and a vacancy at the location. Businesses start up and shut down constantly and it is not unusual for employees to be temporarily put out of work.

If the business cannot follow the rules of the game, sometimes the employees will suffer. While we feel for any legitimate employees and any legitimate landlord, there will be times that businesses will need to be shut down. If the argument that a business should not be shut down when employees would be affected were accepted, the City could never shut a business down, no matter how serious the allegations. Instead, a decision about whether a business should be shut down needs to be based on the circumstances of each case.

**How should the Committee weigh the lack of evidence of recent problems with the business?**

This argument mirrors the arguments at the first hearing in May, 2013. The Committee agrees that the social media report of December 25, 2013 is not reliable to suggest that there are current problems. However, the lack of recent problems may simply be explained by either the business being on good behaviour for a period of time while there is intensive scrutiny, or a lack of enforcement attention.

The decision of June 18, 2013 discusses this argument and we adopt the reasoning of that Committee as to why the lack of recent problems at a business does not necessarily mean the business is now a good corporate citizen. In addition, in this case, Mr. Courtoreille has stated that the City of Edmonton has not recently expended resources in investigating this business since there were more



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pressing matters. This also provides a likely reason why no current problems are documented.

**Should the license be cancelled knowing that the business will be transferred to the wife?**

The Appellant has claimed that putting his wife in charge as the new manager and director will improve operations.

The Committee would note that there was some confusion at the hearing about whether the wife already appeared as a director on a corporate search. This was later clarified, and the wife does appear as the current director. At the end of the day, this was not a factor in the decision of the Committee.

Certainly Mr. Iyer can sell all the shares to the wife and she can apply for a business license. The CLO will then have to decide whether the close ties to family are enough to deny the license. She can also take over management of the operation without a sale.

The Committee finds that it lacks credulity that simply putting the wife in charge of managing the operation, or transferring all shares to the wife, will magically fix the problems of this business. There are few closer ties than a husband and wife. Really, any transfer from a husband to the wife is likely to be a paper transfer which has little affect on operations. Further, if this is a corporate shell game, such a transfer simply prolongs the game.

It is noteworthy that this argument about changing ownership and changing managers was exactly the same argument given to this Committee at the first hearing. At that time the argument was that matters would improve now that there was new ownership and management under Mr. Iyer. It is clear now that new management and new ownership did not make a difference. Nothing that was said at this hearing made us believe that transferring either ownership or management to Mr. Iyer's wife would make any difference. It is our opinion that transferring management or ownership within such close ties is unlikely to fix the issues with this business.

If the wife did buy the shares from the husband, there would have to be clear and unequivocal evidence that this was a true transfer of ownership and control for the business to continue. While it is possible that such evidence exists, none was provided to this Committee that was believable and to which we could place any weight.



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**Are the breaches of the conditions sufficient to cancel the business license?**

The real question for this Committee is whether the breaches are significant enough that they should result in the cancellation of the license. There are breaches of 4 conditions. Both Safer and Mike Nazir remained involved in the business operations after the first decision of this Committee. The spirit of conditions #1 and #8 were also breached in that alcohol appeared to have been sold from the rear of the premises outside of normal working hours. These breaches are not contested.

Each of these breaches on their own, without knowledge of the history of this matter, and without reviewing the prior decision of this Committee, do not appear to be serious enough to warrant cancellation of the licence for this business. However the picture appears different when the past history of this business is also taken into account. The conditions that were placed on this business were implemented with the intent of eliminating the problems at the business. When the conditions were placed on the business, the business was given a second chance. Any breach of the conditions is therefore serious because it shows that the business continued to operate in a way that was against the public interest. Breaching four separate conditions, one of which involved the illegal sale of alcohol therefore becomes extremely serious.

Where conditions have been placed on a business in order to stop criminal activity, and those conditions are breached on multiple occasions and in multiple ways, the risk for criminal activity increases. In this case criminal activity apparently did take place in that illegal sales of alcohol took place.

Selling alcohol out of a store not licensed to do so appears to be relatively minor. However, if the City of Edmonton turned a blind eye to this activity, it would quickly gain in popularity. There are reasons the sale of alcohol is regulated. We are not willing to allow a business to make money on the illegal sale of alcohol without taking action. The first action taken in this case was placing conditions on the business to ensure that the activities stopped. They did not. The cancellation of the license is now warranted.

In addition, it is not fair to any taxpayer that they would have to foot the bill for continuing to monitor conditions on a business designed to control criminal activity after the conditions have been breached. How much taxpayer money should be spent before the license can be cancelled? The facts of this case support the view that enough money has already been spent.

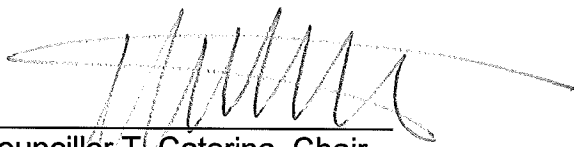


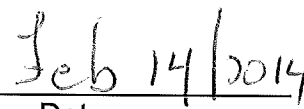
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In addition, the attitude of the owner of the business today shows that cancellation of the license is warranted. He is placing complete reliance on his managers and does not want to be involved in the day to day operation of the business. He then blames the manager that he himself hired. Any owner that makes poor choices in choosing managers maintains the responsibility for those choices. Mr. Iyer does not seem to understand this, and instead appears to believe that his poor choice of hiring can be overlooked because he is not involved in the daily operations. He cannot have it both ways.

It is therefore both the fact that there were already conditions on the business that were intended to eliminate the problems on the business that were breached, along with the fact that the owner ran the business in such a way that clearly risked these breaches. Those facts alone would be enough to uphold the cancellation. Here, we also believe that the owner knew about the breaches and allowed them to take place. That provides an additional reason for a cancellation of the license.

  
\_\_\_\_\_  
Councillor T. Caterina, Chair

  
\_\_\_\_\_  
Date





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### **3.5 Appeal of Order 146497819-001 issued to Condominium Corporation No. 1024320 et al, 10617 – 107 Street NW, Edmonton, AB, Order Pursuant to Section 546(1)(c) of the *Municipal Government Act***

#### **Issues**

1. Whether the property is untidy and unsightly and detrimental to the surrounding area.
2. Whether illegal dumping has been occurring at this location.
3. Whether a forward looking statement should be included with the Order.

#### **Evidence**

In dealing with the appeal of an Order to Condominium Corporation No. 1024320 et al, regarding 10617 – 107 Street NW, Edmonton, AB, the Community Standards and Licence Appeal Committee considered the following evidence:

1. The Appellant was not present. The letter of appeal submitted by J. S Appellant, was reviewed.
2. The Committee heard from T. Courtoreille, Respondent.
3. The Committee viewed photographs of the subject property taken by Administration on November 25, 2013, December 12, 2013 and January 21, 2014.

The Respondent noted that as a result of a citizen's complaint an investigation was conducted and a Notice to Comply was issued on November 26, 2013, with instructions to remedy the nuisance on land conditions on the property. On December 12, 2013, a follow up inspection was conducted and showed more accumulation of materials against the rear of the property.

A review of the file showed twenty-four prior bylaw complaints all related to property and community standards issues. A 546 *Municipal Government Act* Order (which included a forward looking statement) was previously issued for this same location in 2011 and this Order expired in November, 2013. Fourteen complaints were proactively resolved between 2011 and 2013 as a result of the forward-looking statement included on the expired Order.

The three sets of photographs, taken on November 25, 2013, December 12, 2013, and January 21, 2014, show various states of the on-going nuisance and untidy and unsightly conditions at this location.



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As no compliance was obtained and due to the on-going issues at this location a new 546 *Municipal Government Act* Order for failure to comply with Section 6 of the *Community Standards Bylaw* was issued on December 13, 2013, which included a forward looking statement.

No information such as the descriptions of suspects or vehicle licence plate numbers had been forwarded to the Respondent which would allow a successful legal investigation to occur in regards to illegal dumping.

Based on the information and photographs presented and the ongoing complaints regarding this property Administration believes that the property meets the criteria of an untidy and unsightly property according to the *Community Standards Bylaw*, and interferes with the neighbouring communities and their rights to enjoy their respective communities. 107 Street is a high traffic area and efforts are being made to revitalize this area. Administration requests that the 546 Order, including the forward looking statement, be upheld to allow the on-going concerns at this address to be proactively addressed.

The letter from the Appellant indicated that from time to time illegal dumping occurs on the property and they are powerless to stop it.

### **Findings on the Issues:**

1. Based on the evidence presented, the Committee finds the condition of the property to be unsightly and detrimental to surrounding properties.

### **Decision**

The Committee upholds the order.

You are therefore ordered to:

Remove all furniture, mattresses, wood, cardboard, boxes, plastics, electronics, loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.

And thereafter maintain the property to prevent the reoccurrence of any unsightly condition detrimental to the surrounding area.





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**Reasons**

The Committee believes the condition of the subject property does interfere with the enjoyment of neighbouring properties and is detrimental to surrounding properties.

No evidence has been presented to support that illegal dumping has been occurring. A property Owner is ultimately responsible for cleaning up their property even if the untidy condition is a result of illegal dumping.

Given the history and the number of times Administration has had to respond to this location the forward looking statement is necessary.

A handwritten signature in black ink, appearing to read 'T. Caterina', written over a horizontal line.

Councillor T. Caterina

A handwritten date in black ink, 'Feb 14 / 2014', written over a horizontal line.

Date



**COMMUNITY STANDARDS AND  
LICENCE APPEAL COMMITTEE**

**MINUTES**

**January 23, 2014 – Churchill Building**

**PRESENT**

T. Caterina, S. McKeen, M. Oshry

**ALSO IN ATTENDANCE**

S. McDonald, Office of the City Clerk  
C. Ashmore, Law Branch  
I. Russell, Office of the City Clerk

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## DECISION SUMMARY

ITEM		DECISION
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### 1. CALL TO ORDER AND RELATED BUSINESS

#### 1.1 Call to Order

Councillor Caterina called the meeting to order at 9:40 a.m.

**Moved M. Oshry:**

That the Items on the Agenda that have not been withdrawn be heard in the following order: 3.5, 3.2, 3.3

**In Favour:**

**Carried**

T. Caterina, S. McKeen, M. Oshry

#### 1.2 Adoption of Minutes

**Moved S. McKeen:**

That the November 8, 2013, Community Standards and Licence Appeal Committee meeting minutes be adopted.

**In Favour:**

**Carried**

T. Caterina, S. McKeen, M. Oshry

### 2. EXPLANATION OF APPEAL HEARING PROCESS

Councillor Caterina explained the appeal hearing process and asked if anyone objected to any Member of the Community Standards and Licence Appeal Committee hearing the appeals. No one objected.

### 3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

#### 3.1

[Appeal of Order - C. P., 11339 - 70 Street NW, Edmonton, Alberta, Order Pursuant to Section 546\(1\)\(c\) of the \*Municipal Government Act\*.](#)

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property.

#### 3.4

[Appeal of Order - B. B., 184 Humberstone Road NW, Edmonton, Alberta, Order Pursuant to Section 545\(1\) of the \*Municipal Government Act\*.](#)

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property.

3.6 [Appeal of Order - Cockralls Auto Body Ltd., 11744 - 96 Street NW, Order Pursuant to Section 545\(1\) of the \*Municipal Government Act\*.](#)

S. McDonald, Office of the City Clerk, advised the Committee that pursuant to an inspection conducted on the property, Administration has withdrawn the Order against this property.

3.5 [Appeal of Order - Condominium Corporation No. 1024320, 10617 - 107 Street NW, Edmonton, Alberta, Order Pursuant to Section 546\(1\)\(c\) of the \*Municipal Government Act\*](#)

The Appellant was not present.

C. Ashmore, Law Branch, answered the committee's questions.

T. Courtoreille, Community Services Department, made a presentation and answered the Committee's questions.

Three sets of photographs dated November 25, 2013, December 12, 2013, and January 21, 2014, were presented to the Committee and Office of the City Clerk.

The Committee reviewed the original letter of appeal dated December 17, 2013, submitted by J. S., Appellant.

**Moved S. McKeen:**

<p>The Committee upholds the order. You are therefore ordered to:  Remove all furniture, mattresses, wood, cardboard, boxes, plastics, electronics, loose litter and debris and other assorted materials from the entire property and take any actions or remove any other items that are contributing to the unsightly condition of the property.  And thereafter maintain the property to prevent the reoccurrence of any unsightly condition detrimental to the surrounding area.</p>	<p>Community Services Dept.  <b>Due Date:</b> December 27, 2013</p>
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**In Favour:**

T. Caterina, S. McKeen, M. Oshry

**Carried**

3.2 [Appeal of Order - B. M., 12204 - 113 Avenue NW, Order Pursuant to Section 546\(1\)\(c\) of the \*Municipal Government Act\*.](#)

B. M., Appellant requested a postponement and answered the Committee's questions.

C. Ashmore, Law Branch, answered the Committee's

questions.

T. Courtoreille, Community Services Department, answered the Committee's questions.

**Moved M. Oshry:**

That the Committee grant the Postponement Request.	
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The appeal has been rescheduled to 9:30 a.m., Thursday, February 27, 2014.	
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**In Favour:**

**Carried**

T. Caterina, S. McKeen, M. Oshry

3.3

**[Appeal of Decision to Cancel Business Licence 102751290-005 issued to 1694838 Alberta Ltd. o/a New York Pizza and Donair](#)**

C. Caterina explained the appeal hearing process for business licence appeals.

A. Persi, Student at Law, Snyder & Associates, confirmed he is the representative of the Appellant and requested a postponement. He answered the committee's questions.

C. Ashmore, Law Branch, answered the committee's questions.

T. Courtoreille, Respondent, requested that the Postponement request be denied and answered the Committee's questions. T. Courtoreille submitted a written request to the Committee to revoke the stay should the Postponement request be denied.

A recess was granted at 10:17 a.m. in order to allow A. Persi to meet privately with his Client.

The Committee reconvened at 10:43 a.m.

A. Persi confirmed he is seeking a Postponement on behalf of his client but opposes revoking the stay.

The Committee met in private at 11:06 a.m. pursuant to Section 20 of the *Freedom of Information and Protection of Privacy Act*.

The Committee reconvened at 11:44 a.m.

**Moved T. Caterina:**

That the Committee deny the Postponement Request.	
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**In Favour:**

**Carried**

T. Caterina, M. Oshry

**Opposed:**

S. McKeen

The Committee will reconvene at 1:00 p.m. to hear the appeal.

The Committee reconvened at 1:03 p.m.

C. Caterina reviewed the hearing process regarding business licence appeals.

A. Persi, representative of the Appellant, made a presentation and answered the Committee's questions. The Committee allowed A. Persi a short recess at 1:29 p.m. to consult with his client in private. The meeting reconvened at 1:33 p.m. A. Persi provided some further clarifications.

T. Courtoreille, Respondent, made a presentation and answered the Committee's questions.

C. Ashmore, Law Branch, answered the Committee's questions.

N. Jacobsen, legal counsel for the Respondent, clarified legislation regarding time lines for registration of a change of Director for a Corporation.

T. Caterina directed the record reflect that Mr. Courtereille was the Respondent, not Mr. Corduroy as per the audio.

The Committee met in private at 2:14 p.m., pursuant to Section 20 of the *Freedom of Information and Protection of Privacy Act*.

The Committee met in public at 3:02 p.m.

**Moved T. Caterina:**

The Committee upholds the decision of the Chief Licensing Officer dated November 1, 2013, to cancel Business Licence 102751290-005 issued to 1694838 Alberta Ltd. operating as New York Pizza & Donair at 9715 – 118 Avenue NW, Edmonton	Community Services Dept.  <b>Due Date:</b> November 1, 2013
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**In Favour:**

T. Caterina, S. McKeen, M. Oshry

**Carried**

**4. ADJOURNMENT**

The meeting adjourned at 3:04 p.m.