



COMMUNITY STANDARDS & LICENCE APPEAL COMMITTEE

AGENDA

June 14, 2018 – Churchill Building – Hearing Room 2

9:30 a.m.
12:00 Noon

Call to Order
Lunch

MEMBERS

M. Banga, J. Dziadak, C. Caterina

ITEM		ACTION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	
1.2	Adoption of Agenda	
1.3	Adoption of Minutes	
	<ul style="list-style-type: none"> May 3, 2018, Community Standards and Licence Appeal Committee meeting minutes 	
2.	EXPLANATION OF APPEAL HEARING PROCESS	
3.	COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS	
3.1	Appeal of Decision to Impose Conditions on Business Licence 107425872-001, 1370498 Alberta Ltd. o/a Nyala Lounge, 10875 - 98 Street NW	Preliminary Issue / Postponement Request
4.	ADJOURNMENT	

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COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

May 3, 2018 – Hearing Room 2, Churchill Building

PRESENT

M. Banga, S. McKeen, T. Caterina

ALSO IN ATTENDANCE

S. McDonald, Office of the City Clerk
 C. Ashmore, Law Branch
 B. Webster, Office of the City Clerk

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DECISION SUMMARY

ITEM	DECISION
1.	CALL TO ORDER AND RELATED BUSINESS

1.1 **Call to Order**

1.2 **Adoption of Agenda**

Councillor Banga called the meeting to order at 9:42 am

Moved :

That the May 3, 2018 Community Standards and Licence Appeal Committee meeting minutes be adopted.

1.3 **Adoption of Minutes**

2. **EXPLANATION OF APPEAL HEARING PROCESS**

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

3.1 **Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to K. M.**

Moved S. McKeen:

The Committee denies the appeal.

In Favour:

Carried

M. Banga, T. Caterina, S. McKeen

3.2 **Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to R. S.**

Mr. R. Nanda made a presentation on behalf of the Appellant, Mr. R. S.. Mr. R. S. was also present.

Ms. W. T. Ramirez, Business Licensing and Vehicle for Hire, made a presentation. She was accompanied by Ms. N. Jacobson of Law Branch and Ms. Ramirez and Ms. Jacobson answered the Committee's questions.

Mr. C. Ashmore, Law Branch, provided information and answered the Committee's questions.

The Committee met in private at 10:15 a.m., pursuant to Section 20 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 10:58 a.m.

Councillor Caterina stepped down from this hearing declaring bias.

Moved S. McKeen:

The Committee postpones the hearing for six months.	Business Licensing and Vehicle for Hire
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In Favour:

Carried

M. Banga, S. McKeen

3.3 Appeal of Decision to Refuse to Issue a City of Edmonton Driver's Licence under the Vehicle for Hire Bylaw 17400 to K. S. C.

Moved S. McKeen:

The Committee denies the appeal.

In Favour:

Carried

M. Banga, T. Caterina, S. McKeen

4. ADJOURNMENT

The meeting was adjourned at 11:01 a.m.

Chair

City Clerk

2. The cancellation request should have been done through the City Manager rather than directly to this committee as the Appellants right to appeal has now been removed.

They are satisfied that as of today all relevant information has been provided to them other than a copy of the video which the Respondent plans to introduce as evidence.

They request that the lifting of the stay be delayed for 14 days to allow them time to comply with Conditions 6, 7 and 8. All other conditions are currently being complied with. They are willing to provide extra security until all conditions are fully met.

IV. POSITION OF THE RESPONDENT

The Respondents are strongly opposed to a postponement due to serious concerns to public safety if the business continues to operate. If the Committee grants the postponement they request that the stay of the conditions be lifted immediately and that a hearing be scheduled as soon as possible; a delay of 45 days is too long.

Fair notice of the cancellation request was provided to the Appellant on May 9, 2018, and disclosure was forwarded on May 22, 2018. They believe this was sufficient time for the Appellant to provide a response. No submission has been received from the Appellant.

They do not want to delay the cancellation process further by going through the City Manager in light of a serious incident that occurred at this location after the original decision was made.

V. DECISION

The hearing has been adjourned to Thursday, July 12, 2018.

The interim stay is immediately lifted and all conditions are in place immediately. Nyala Lounge must remain closed until all conditions are met. The Appellant shall submit disclosures by July 3, 2018. The Appellant must inform the Public Safety Compliance Team in writing, when all the conditions are met.

Details regarding the exact time and location of the hearing will be sent in future correspondence.

VI. REASONS FOR DECISION

This matter requires the weighing of interests and the fairness of the procedures relating to conditions on, and the potential cancellation of, a business licence.

The original appeal was about conditions that were imposed on the business licence. The Appellant is requesting a postponement since the Respondent is now asking this Committee to cancel the business licence. In effect, the Appellant is arguing that the nature of the hearing has changed and they have not had enough time to respond to new allegations that have been made. If the matter is postponed, the Appellant is willing to abide by the licence conditions until the hearing takes place, although they want a period of time to get up and running. The Respondent, the Public Safety Compliance Team, is opposing the postponement saying that they provided adequate notice that they were going to ask for the cancellation. However, if the postponement is granted, they request that the Committee lift the stay of the licence conditions until the hearing takes place.


In the opinion of the Committee the hearing needs to be postponed to allow the Appellant to fully respond to the allegations and arguments being made by the Respondent. The Respondent says that providing the disclosure on May 23, 2018 should be sufficient time. The Committee disagrees. When you are dealing with serious issues relating to the employment of so many people and the livelihood of citizens, including the business owner, it is necessary to ensure that both sides have ample time to put together argument and disclosure. Leaving the Appellant with a couple of weeks to respond after the May 23 disclosure, given the nature of the issues and the change in the nature of the hearing, is simply not enough time to be fair to the Appellant.

However, the Committee agrees that there are sufficient issues relating to public safety that the stay should be lifted, and the conditions imposed, immediately. The nature of the various issues and allegations raised against the Appellant are serious in nature. There are significant questions relating to whether he can run his business in a safe manner for both his staff and members of the public without the conditions being present. The proper balancing act therefore requires a postponement to give the Appellant time to prepare and respond, but to protect the public interest by imposing the conditions immediately.

While the Appellant wants 2 weeks where he can operate free of some of the conditions, this is not acceptable to the Committee. The nature of the allegations being made suggest that all the conditions should be in place immediately until such time as a full hearing on this matter can take place. At this time, if we assume that at least some of the allegations are true, then without all the conditions, there are clearly public safety concerns. The nature of the conditions are not such it should take a great deal of time to set them up. In fact, many of them appear to simply be best practices for a business of this nature. Further, given that a hearing can be held within a month, the risk of harm to public safety from not imposing the conditions outweighs the potential loss of income to the business. If it turns out to be necessary and the business cannot comply with the conditions, a temporary shut down of the business appears to be warranted.

To be clear, this committee is not yet ruling on whether the business needs to comply with these conditions on a permanent basis. This is a temporary decision that lasts until the hearing takes place when such a decision shall be considered. The new hearing date shall be July 12, 2018 and all the parties have agreed to be available that date. To provide some additional time for the Appellant to disclose, this Committee will accept disclosure from the Appellant until July 3, 2018.

Further, so that conditions can be monitored by the Respondent, we agree that the Appellant needs to inform the Respondent in writing when the conditions are complied with and they begin to operate. This will allow the Respondent to monitor the situation until the final hearing takes place. Obviously if the business owner decides to operate without complying with the conditions that is something that the Committee may take into account on July 12, 2018.


Councillor M. Banga

June 22, 2018
Date



COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE

MINUTES

June 14, 2018 – Churchill Building

PRESENT

M. Banga, J. Dziadyk, T. Caterina

ALSO IN ATTENDANCE

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

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4.	ADJOURNMENT	3	

DECISION SUMMARY

ITEM		DECISION
1.	CALL TO ORDER AND RELATED BUSINESS	
1.1	Call to Order	

Councillor Banga called the meeting to order at 9:47 a.m.

1.2	Adoption of Agenda	
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Moved T. Caterina:

That the June 14, 2018, Community Standards and Licence Appeal Committee Agenda be adopted

In Favour:

Carried

M. Banga, T. Caterina, J. Dziadyk

1.3 Adoption of Minutes

Moved T. Caterina:

That the May 3, 2018 Community Standards and Licence Appeal Committee meeting minutes be adopted.

In Favour:

Carried

M. Banga, T. Caterina, J. Dziadyk

2. EXPLANATION OF APPEAL HEARING PROCESS

Mr. C. Ashmore, Law Branch, provided information regarding procedural and preliminary issues.

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

3. COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE MATTERS

3.1 Appeal of Decision to Impose Conditions on Business Licence 107425872-001, 1370498 Alberta Ltd. o/a Nyala Lounge, 10875 - 98 Street NW

Mr. P. Alwis, Legal Counsel for the Appellant, advised the Committee his client was seeking a postponement of this hearing.

Ms. A. Goodwin, representing Renouf Professional Corporation, advised that they were opposed to a postponement due to public safety concerns.

Mr. C. Ashmore, Law Branch provided information and answered the Committee's questions.

The Committee allowed a short recess to allow Mr. P. Alwis to consult with his client.

The Committee met in private at 11:24 a.m. pursuant to Section 20 of The Freedom of Information and Protection of Privacy Act.

The Committee met in public at 11:48 a.m.

Moved T. Caterina

The hearing has been adjourned to Thursday, July 12, 2018.

The interim stay is immediately lifted and all conditions are in place immediately. Nyala Lounge must remain closed until all conditions are met. The Appellant shall submit disclosures by July 3, 2018. The Appellant must inform the Public Safety Compliance Team in writing, when all the conditions are met.

Details regarding the exact time and location of the hearing will be sent in future correspondence.

In Favour:

Carried

M. Banga, T. Caterina, J. Dziadyk

4. ADJOURNMENT

The meeting was adjourned at 11:49 a.m.

Chair

City Clerk