

File No.: 04-1000-20-2021-079

April 28, 2021

s.22(1)

Dear s.22(1)

Re: **Request for Access to Records under the Freedom of Information and Protection of Privacy Act (the "Act")**

I am responding to your request dated January 29, 2021 under the ***Freedom of Information and Protection of Privacy Act, (the Act)***, for:

Record of all COVID enforcement warnings and tickets issued by the City's COVID team, broken down by month.

All responsive records are attached.

Please note that the role of the Property Use Inspectors is to educate the public regarding the Provincial Order, as opposed to enforcing it. With this in mind, it may be appropriate to direct your request to the Vancouver Police Department or the Province of BC.

Under section 52 of the Act, and within 30 business days of receipt of this letter, you may ask the Information & Privacy Commissioner to review any matter related to the City's response to your FOI request by writing to: Office of the Information & Privacy Commissioner, info@oipc.bc.ca or by phoning 250-387-5629.

If you request a review, please provide the Commissioner's office with: 1) the request number (#04-1000-20-2021-079); 2) a copy of this letter; 3) a copy of your original request; and 4) detailed reasons why you are seeking the review.

Yours truly,

[Signature on file]

Barbara J. Van Fraassen, BA
Director, Access to Information & Privacy

Barbara.vanfraassen@vancouver.ca
453 W. 12th Avenue Vancouver BC V5Y 1V4

*If you have any questions, please email us at foi@vancouver.ca and we will respond to you as soon as possible. Or you can call the FOI Case Manager at 604.871.6584.

Encl.

:kt

HAND DELIVER, EMAIL AND REGULAR MAIL

KAMALJIT KANDOLA
JK HOLDINGS LTD
DBA: TIM HORTONS
108 W PENDER STREET
VANCOUVER BC V6B 0K4

NOTICE OF BUSINESS LICENCE SUSPENSION

RE: 108 W Pender Street (the "Property")

On March 19, 2020, City Council enacted By-law No. 12661 (the "By-law") to declare a state of emergency in response to the COVID-19 pandemic.

On March 20, 2020, the City Manager issued an order pursuant to Section 3(c) of the By-law to all restaurants and limited food service establishments in the City to prohibit customers from eating inside their premises, and to limit the number of customers within their premises to no more than 10 persons at any time (the "Municipal Order").

On March 20, 2020, the Provincial Health Officer issued an order pursuant to Sections 30, 31, 32 and 39(3) of the Public Health Act (the "Provincial Order") requiring that all restaurants and limited food service establishments in the Province:

- Only provide take out or delivery service;
- Only allow customers on your premises for the time that it takes them to purchase and collect their purchase; and
- Ensure that when there are people on your premises there is sufficient space available to enable them to maintain a distance of 2 metres from one another.

A copy of both the Municipal Order and Provincial Order is attached for your reference.

On March 25, 2020, a City Inspector attended to your Premises and observed an occupant load over the allowable limit of 10 patrons who were lined up approximately 1 foot apart forming a line to be served at the cashier inside the building, in contravention of the Municipal Order. The Inspector advised staff that they were to comply with the Municipal Order immediately, and posted a copy of the Municipal Order on the front door of the Premises and hand delivered a copy of the Municipal Order.

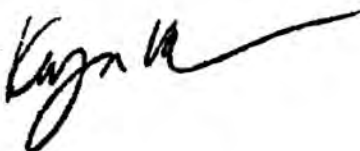
A City Inspector re-attended the Property on March 26, 2020, and again observed an occupant load over the allowable limit of 10 patrons who were lined up approximately 1 foot apart forming a line to be served at the cashier, in contravention of the Municipal Order and Provincial Order.

I have concluded that your business, Tim Hortons, located at 108 W Pender Street, is harmful to the health and safety of the community and guilty of gross misconduct as to warrant the suspension of your business licence. Therefore, in accordance with Section 277 of the Vancouver Charter, Business Licence #2020-150976-00 is **IMMEDIATELY suspended until March 30, 2020.**

The business known as Tim Hortons operating from the Property **must remain closed during the above suspension period** and until such time that you hold a valid 2020 business licence.

Failure to comply with this business licence suspension will result in an extension to the suspension, and the issuance of violation tickets for carrying on business without a licence. Pursuant to Section 4(3) of License By-law No. 4450, if you are convicted of carrying on business without a licence, you will be prohibited from holding a business licence in the City of Vancouver for the next five years.

For questions or concerns please contact me at 604-873-7545 or via email at kathryn.holm@vancouver.ca.



Kathryn Holm, M. Sc., P. Eng.
Chief Licence Inspector and
Director of Licences and Inspections

Attachment: Municipal Order dated March 20, 2020
Provincial Order dated March 20, 2020

Copy: Posted on the Property

JK Holdings Ltd
1350 Doran Road
North Vancouver BC V7K 1M9

AMANDA 7



General Folder

108 W PENDER ST [RR] X

Menu Search



Folder | Property | People | Info | Fee | Process | Comment | Correspondence

2020 150946 000 00 RR Restaurant Class 1 Issued

Menu +

General Folder

Licence / Permit

My Office

People

Property

Task List

☐ Required Primary People: Business Name

☐ JK Holdings Ltd

Person's Role
Business Name

Address

Kamaljit Kandola 108 W PENDER ST Vanc...

Telephone

(604) 568-9262 e

People ID

558700

Personal Email

Comment

☐ Tim Hortons

Person's Role
Business Trade Name

Address

Vancouver, British Columbia CAN

Telephone

People ID

458002

Personal Email

Comment

ORDER ISSUED PURSUANT TO BY-LAW NO. 12661,

“A BY-LAW TO DECLARE A STATE OF EMERGENCY IN VANCOUVER”
THIS ORDER IS BEING ISSUED UNDER THE AUTHORITY OF SECTION 3c OF BY-LAW NO. 12661.

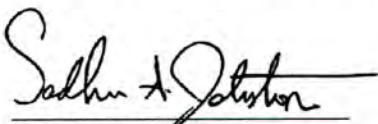
THIS ORDER PROHIBITS CUSTOMERS FROM EATING INSIDE LICENSED PREMISES AND LIMITS THE NUMBER OF CUSTOMERS IN ANY SUCH PREMISES TO NO MORE THAN 10 PERSONS AT ANY TIME.

IN ORDER TO HELP CONTAIN THE PANDEMIC SPREAD OF COVID-19, THE COUNCIL OF THE CITY OF VANCOUVER HAS ENACTED AN EMERGENCY BY-LAW AUTHORIZING CERTAIN PERSONS, INCLUDING THE CITY MANAGER, SADHU JOHNSTON, TO ISSUE WRITTEN ORDERS THAT RESTRICT, LIMIT OR PROHIBIT THE USE OR OCCUPANCY OF ANY PREMISES WITHIN THE CITY OF VANCOUVER.

IN ACCORDANCE WITH THAT AUTHORITY, THE CITY MANAGER HEREBY ORDERS ALL BUSINESS OPERATORS WHO HOLD ANY CLASS OF RESTAURANT LICENSE (RESTAURANT - CLASS 1, RESTAURANT - CLASS 1 WITH LIQUOR SERVICE, RESTAURANT - CLASS 2, RESTAURANT - CLASS 2 WITH LIQUOR SERVICE) OR A LIMITED SERVICE FOOD ESTABLISHMENT LICENSE UNDER THE LICENSE BY-LAW, NO. 4450, TO PROHIBIT CUSTOMERS FROM EATING INSIDE THEIR LICENSED PREMISES AND TO LIMIT THE NUMBER OF CUSTOMERS IN ANY SUCH PREMISES TO NO MORE THAN 10 PERSONS AT ANY TIME.

THOSE AFFECTED BUSINESS OPERATORS MAY INSTEAD CARRY ON THEIR BUSINESS AS A DELIVERY OR TAKE OUT RESTAURANT ONLY.

**THIS ORDER IS TO TAKE EFFECT IMMEDIATELY UPON SIGNATURE,
AND IS IN EFFECT UNTIL FURTHER NOTICE.**



SADHU JOHNSTON
CITY MANAGER

SIGNED AND DATED MARCH 20, 2020



ORDER OF THE PROVINCIAL HEALTH OFFICER
(Pursuant to Sections 30, 31, 32, 39 (3) and 67 *Public Health Act*, S.B.C. 2008)

The *Public Health Act* is at:

<http://www.bclaws.ca/civix/content/complete/statreg/08028/?xsl=/templates/browse.xsl> (excerpts enclosed)

- TO: OWNERS AND OPERATORS OF PREMISES AT WHICH FOOD AND/OR DRINK IS PREPARED AND SERVED**
- TO: HOLDERS OF LIQUOR LICENCES AND LIQUOR LICENCE ENDORSEMENTS THAT DO NOT OFFER MEAL SERVICE AT THEIR PREMISES**
- TO: OWNERS AND OPERATORS OF PREMISES AT WHICH MEALS AND DRINKS, INCLUDING DRINKS CONTAINING LIQUOR ARE PREPARED AND SERVED**
- TO: OWNERS AND OPERATORS OF RETAIL LIQUOR ESTABLISHMENTS**

WHEREAS:

- A. A communicable disease known as COVID-19 has emerged in British Columbia.
- B. SARS-CoV-2, an infectious agent, can cause outbreaks of serious illness known as COVID-19 among the public;
- C. A person infected with SARS-CoV-2 can infect other people with whom the infected person is in contact;
- D. The gathering of people in close contact with one another can promote the transmission of SARS-CoV-2 and increase the number of people who develop COVID-19;
- E. You belong to one of the classes of persons to whom this notice is addressed;
- F. I have reason to believe and do believe that
 - (i) the risk of an outbreak of COVID-19 among the public constitutes a health hazard under the *Public Health Act*;
 - (ii) because the risk of an outbreak extends beyond the authority of one or more medical health officers and coordinated action is needed to protect the public from contracting COVID-19, it is in the public interest for me to exercise the powers in sections 30, 31, 32 and 39(3) of the *Public Health Act* **TO ORDER** as follows:

THIS ORDER SUPERSEDES MY ORAL ORDER DIRECTED AT LIQUOR LICENCE HOLDERS AND FOOD SERVICE OPERATORS MADE ON MARCH 17, 2020 AND CONFIRMS MY ORAL ORDER MADE ON MARCH 20, 2020

OWNERS AND OPERATORS OF PLACES AT WHICH FOOD AND/OR DRINK ARE PREPARED AND SERVED

1. You may stay open, subject to the following:
 - a. You may only provide take out or delivery service.
 - b. Customers may be on your premises only for the time that it takes them to purchase and collect their purchase.
 - c. You must ensure that when there are people on your premises there is sufficient space available to enable them to maintain a distance of 2 metres from one another.
 - d. You must not have more than 50 people present at one time on your premises.

HOLDERS OF LIQUOR LICENCES AND LIQUOR LICENCE ENDORSEMENTS THAT DO NOT OFFER MEAL SERVICE AT THEIR PREMISES

1. If you are the holder of a Liquor Primary Licence and only provide snacks or appetizers but not meal service, such as a nightclub, you must close.
2. If you are the holder of a manufacturer onsite lounge endorsement or a manufacturer onsite tasting room endorsement you must close those endorsement areas.

OWNERS AND OPERATORS OF PLACES AT WHICH MEALS AND DRINKS, INCLUDING DRINKS CONTAINING LIQUOR, ARE PREPARED AND SERVICED

1. You may stay open, subject to the following:
 - a. You may only provide take out or delivery service.
 - b. Customers may be on your premises only for the time that it takes them to purchase and collect their purchases.
 - c. You must ensure that when there are people on your premises there is sufficient space available to enable them to maintain a distance of 2 metres from one another.
 - d. You must not have more than 50 people present at one time on your premises.

OWNERS AND OPERATORS OF RETAIL LIQUOR ESTABLISHMENTS

1. If you are the holder of a retail liquor store licence or a manufacturer's on-site store endorsement, or a liquor primary licence with an off-sales endorsement listed in Table 1, your retail premise may stay open.
2. You are subject to the above provisions which apply to the OWNERS AND OPERATORS OF PLACES AT WHICH MEALS AND DRINKS, INCLUDING DRINKS CONTAINING LIQUOR, are prepared and served.

Table 1 - Retail liquor sales permitted at premises whose operators hold one of these licences or endorsements

Licence
brewery licence with on-site store endorsement
winery licence with on-site store endorsement
distillery licence with on-site store endorsement
licensee retail store licence
wine store licence
special wine store licence
liquor primary licence with off-sales endorsement

You may contact me at:

Dr. Bonnie Henry, Provincial Health Officer
 4th Floor, 1515 Blanshard Street
 P O Box 9648 STN PROV GOVT, Victoria BC V8W 9P4
 Fax: (250) 952-1570

This Order expires on May 30, 2020 and is subject to revision, cancellation or extension by me.

You are required under section 42 of the *Public Health Act* to comply with this Order. Failure to comply with this Order is an offence under section 99 (1) (k) of the *Public Health Act*.

Under section 43 of the *Public Health Act*, you may request me to reconsider this Order if you:

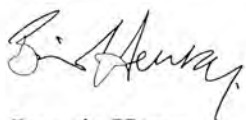
1. Have additional relevant information that was not reasonably available to me when this Order was issued,
2. Have a proposal that was not presented to me when this Order was issued but, if implemented, would
 - (a) meet the objective of the order, and
 - (b) be suitable as the basis of a written agreement under section 38 [may make written agreements]
3. Require more time to comply with the order.

Under section 43 (6) an order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

If you fail to comply with this Order, I have the authority to take enforcement action against you under Part 4, Division 6 of the *Public Health Act*.

DATED THIS: 20 day of March 20, 2020

SIGNED:



Bonnie Henry
 MD, MPH, FRCPC
 Provincial Health Officer

DELIVERY BY: News release and posting on the BC Government website, posting on the BC Centre for Disease Control website and by email.

Enclosure: Excerpts of *Public Health Act*

ENCLOSURE**Excerpts of the *PUBLIC HEALTH ACT*****Public Health Act [SBC 2008] c. 28****Definitions**

1 In this Act:

"health hazard" means

- (a) a condition, a thing or an activity that
 - (i) endangers, or is likely to endanger, public health, or
 - (ii) interferes, or is likely to interfere, with the suppression of infectious agents or hazardous agents, or
- (b) a prescribed condition, thing or activity, including a prescribed condition, thing or activity that
 - (i) is associated with injury or illness, or
 - (ii) fails to meet a prescribed standard in relation to health, injury or illness;

When orders respecting health hazards and contraventions may be made

30 (1) A health officer may issue an order under this Division only if the health officer reasonably believes that

- (a) a health hazard exists,
- (b) a condition, a thing or an activity presents a significant risk of causing a health hazard,
- (c) a person has contravened a provision of the Act or a regulation made under it, or
- (d) a person has contravened a term or condition of a licence or permit held by the person under this Act.

(2) For greater certainty, subsection (1) (a) to (c) applies even if the person subject to the order is complying with all terms and conditions of a licence, a permit, an approval or another authorization issued under this or any other enactment.

General powers respecting health hazards and contraventions

31 (1) If the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, a health officer may order a person to do anything that the health officer reasonably believes is necessary for any of the following purposes:

- (a) to determine whether a health hazard exists;

- (b) to prevent or stop a health hazard, or mitigate the harm or prevent further harm from a health hazard;
 - (c) to bring the person into compliance with the Act or a regulation made under it;
 - (d) to bring the person into compliance with a term or condition of a licence or permit held by that person under this Act.
- (2) A health officer may issue an order under subsection (1) to any of the following persons:
- (a) a person whose action or omission
 - (i) is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
 - (b) a person who has custody or control of a thing, or control of a condition, that
 - (i) is a health hazard or is causing or has caused a health hazard, or
 - (ii) is not in compliance with the Act or a regulation made under it, or a term or condition of the person's licence or permit;
 - (c) the owner or occupier of a place where
 - (i) a health hazard is located, or
 - (ii) an activity is occurring that is not in compliance with the Act or a regulation made under it, or a term or condition of the licence or permit of the person doing the activity.

Specific powers respecting health hazards and contraventions

- 32** (1) An order may be made under this section only
- (a) if the circumstances described in section 30 [*when orders respecting health hazards and contraventions may be made*] apply, and
 - (b) for the purposes set out in section 31 (1) [*general powers respecting health hazards and contraventions*].
- (2) Without limiting section 31, a health officer may order a person to do one or more of the following:
- (a) have a thing examined, disinfected, decontaminated, altered or destroyed, including
 - (i) by a specified person, or under the supervision or instructions of a specified person,
 - (ii) moving the thing to a specified place, and
 - (iii) taking samples of the thing, or permitting samples of the thing to be taken;
 - (b) in respect of a place,
 - (i) leave the place,
 - (ii) not enter the place,

- (iii) do specific work, including removing or altering things found in the place, and altering or locking the place to restrict or prevent entry to the place,
 - (iv) neither deal with a thing in or on the place nor dispose of a thing from the place, or deal with or dispose of the thing only in accordance with a specified procedure, and
 - (v) if the person has control of the place, assist in evacuating the place or examining persons found in the place, or taking preventive measures in respect of the place or persons found in the place;
 - (c) stop operating, or not operate, a thing;
 - (d) keep a thing in a specified place or in accordance with a specified procedure;
 - (e) prevent persons from accessing a thing;
 - (f) not dispose of, alter or destroy a thing, or dispose of, alter or destroy a thing only in accordance with a specified procedure;
 - (g) provide to the health officer or a specified person information, records, samples or other matters relevant to a thing's possible infection with an infectious agent or contamination with a hazardous agent, including information respecting persons who may have been exposed to an infectious agent or hazardous agent by the thing;
 - (h) wear a type of clothing or personal protective equipment, or change, remove or alter clothing or personal protective equipment, to protect the health and safety of persons;
 - (i) use a type of equipment or implement a process, or remove equipment or alter equipment or processes, to protect the health and safety of persons;
 - (j) provide evidence of complying with the order, including
 - (i) getting a certificate of compliance from a medical practitioner, nurse practitioner or specified person, and
 - (ii) providing to a health officer any relevant record;
 - (k) take a prescribed action.
- (3) If a health officer orders a thing to be destroyed, the health officer must give the person having custody or control of the thing reasonable time to request reconsideration and review of the order under sections 43 and 44 unless
- (a) the person consents in writing to the destruction of the thing, or
 - (b) Part 5 [*Emergency Powers*] applies.

May make written agreements

38 (1) If the health officer reasonably believes that it would be sufficient for the protection of public health and, if applicable, would bring a person into compliance with this Act or the regulations made under it, or a term or condition of a licence or permit held by the person under this Act, a health officer may do one or both of the following:

- (a) instead of making an order under Division 1, 3 or 4, enter into a written agreement with a person, under which the person agrees to do one or more things;
- (b) order a person to do one or more things that a person has agreed under paragraph (a) to do, regardless of whether those things could otherwise have been the subject of an order under Division 1, 3 or 4.

(2) If, under the terms of an agreement under subsection (1), a health officer conducts one or more inspections, the health officer may use information resulting from the inspection as the basis of an order under this Act, but must not use the information as the basis on which to

- (a) levy an administrative penalty under this Act, or
- (b) charge a person with an offence under this Act.

Contents of orders

39 (3) An order may be made in respect of a class of persons.

Duty to comply with orders

42 (1) A person named or described in an order made under this Part must comply with the order.

(2) Subsection (1) applies regardless of whether the person leaves the geographic area for which the health officer who made the order is designated.

Reconsideration of orders

43 (1) A person affected by an order, or the variance of an order, may request the health officer who issued the order or made the variance to reconsider the order or variance if the person

- (a) has additional relevant information that was not reasonably available to the health officer when the order was issued or varied,
- (b) has a proposal that was not presented to the health officer when the order was issued or varied but, if implemented, would
 - (i) meet the objective of the order, and
 - (ii) be suitable as the basis of a written agreement under section 38 [*may make written agreements*], or
- (c) requires more time to comply with the order.

(2) A request for reconsideration must be made in the form required by the health officer.

(3) After considering a request for reconsideration, a health officer may do one or more of the following:

(a) reject the request on the basis that the information submitted in support of the request

(i) is not relevant, or

(ii) was reasonably available at the time the order was issued;

(b) delay the date the order is to take effect or suspend the order, if satisfied that doing so would not be detrimental to public health;

(c) confirm, rescind or vary the order.

(4) A health officer must provide written reasons for a decision to reject the request under subsection (3) (a) or to confirm or vary the order under subsection (3) (c).

(5) Following a decision made under subsection (3) (a) or (c), no further request for reconsideration may be made.

(6) An order is not suspended during the period of reconsideration unless the health officer agrees, in writing, to suspend it.

(7) For the purposes of this section,

(a) if an order is made that affects a class of persons, a request for reconsideration may be made by one person on behalf of the class, and

(b) if multiple orders are made that affect a class of persons, or address related matters or issues, a health officer may reconsider the orders separately or together.

(8) If a health officer is unable or unavailable to reconsider an order he or she made, a similarly designated health officer may act under this section in respect of the order as if the similarly designated health officer were reconsidering an order that he or she made.

99 (1) A person who contravenes any of the following provisions commits an offence:

...

(k) section 42 [*failure to comply with an order of a health officer*], except in respect of an order made under section 29 (2) (e) to (g) [*orders respecting examinations, diagnostic examinations or preventive measures*];