

**EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE**

Citation: 2458995 Alberta Ltd. v Development Services (City of Edmonton), 2025ABECSLAC 10011

Date:	August 25, 2025
Licence Number:	542149340-001
CSLAC File Number:	CSLAC-25-011

Between:

1959464 Alberta Ltd. & 2458995 Alberta Ltd.

and

The City of Edmonton, Development Services

Committee Members

Kathy Cherniawsky, Chair
Allan Bolstad
Chris Samuel

DECISION

- [1] On August 12 2025, the Community Standards and Licence Appeal Committee (the “Committee” or “CSLAC”) heard appeals that were filed on June 23, 2025. The appeals concerned the decision of the Program Manager, Business Licensing to impose conditions on Business Licence 367409281-002 and 542149340-001 issued to 1959464 Alberta Ltd. and 2458995 Alberta Ltd., pursuant to sections 24 to 26 of *City of Edmonton Bylaw 20002 (Business Licence Bylaw)*.
- [2] The subject properties are located at 10005 - 106 Avenue NW and 12829 - 66 Street NW, Edmonton, AB.
- [3] The Committee made and passed the following motion on July 8, 2025:
- “that the appeal hearing scheduled for July 30, 2025 be postponed and rescheduled in the afternoon on August 12, 2025.”

August 12, 2025 Hearing:

Motion:

“that CSLAC-25-010 and CSLAC-25-011 be raised from the table.”

[4] The appeal hearing on August 12, 2025, was held through a combination of written submissions and video conference. The following documents were received prior to the hearing and form part of the record:

- The Respondent (City of Edmonton) submissions, including a submission from the Edmonton Police Service (EPS); and
- The Appellant's Request for Review.

Preliminary Matters

[5] At the outset of the hearing, [redacted], City of Edmonton Law Branch disclosed that [redacted] Committee member, was her Law Professor during 2019 and 2020. However, there was no opposition to the composition of the panel.

[6] The Chair outlined how the hearing would be conducted, including the order of appearance of parties, and no opposition was noted.

[7] The appeals were filed on time, in accordance with Section 30(1) of the *Business Licence Bylaw*.

Summary of Hearing

i) Position the Appellant, 1959464 Alberta Ltd. & 2458995 Alberta Ltd.

[8] Legal Counsel for the Appellant, confirmed that the business owner is specifically appealing Condition No. 1 (prohibition of tobacco sales) imposed for both business locations. The owner does not object to Condition No. 2, prohibiting the sale of weapons or Condition No. 3, the requirement to immediately notify the City of any new criminal charges or outcomes. In addition, he does not object to the change in business category to "retail sales convenience store".

[9] The Appellant wants to be allowed to sell legitimate tobacco products purchased through AGLC at both locations. Contraband tobacco has not been sold since the incidents.

[10] The owner has taken "concrete steps" to stop selling illegal tobacco, knives, and bear spray. All knives (even legitimate ones) and bear spray were removed from the 106 Avenue location after the December 2024 incident. Therefore, the potential to create harm to the public has been removed.

[11] The owner was unaware that employees were selling illegal tobacco (which was hidden in a special drawer) or that some of the knives he purchased from a wholesaler were prohibited. Even though he had no knowledge of the illegal sales, he was charged as the owner/operator.

- [12] No allegations of illegal activity (knives, bear spray, brass knuckles, or unstamped tobacco) have been made against the 66 Street location. Therefore, it is unfair to refuse this business licence based on issues that occurred at the 106 Avenue location.
- [13] He questioned how selling legitimate cigarettes would cause "danger or harm" or risk "public safety." It was acknowledged that prohibited knives and brass knuckles are a concern but the owner has addressed this issue.
- [14] The following information was provided in response to questions from the Committee:
- a) Two Tobacco Act charges have been set for trial, and one charge (June 2024) was stayed. The most recent charges (December 2024 incidents) are still before the courts.
 - b) The owner is willing to abide by all of the conditions proposed by EPS as written in the submitted reports with the exception of Condition No. 8 that requires reduced operating hours. It was his opinion that keeping the store open 24 hours enhances safety as employees can monitor who enters the store. Cameras and a buzzer system to control after-hours entry have been installed. In addition, a Violence and Harassment Prevention Policy and an Emergency Response Plan have been implemented by the owner.
 - c) The fact that no new allegations have been made since December 2024 is proof that the owner is no longer selling contraband tobacco.
 - d) The decision was made to install security cameras when the owner became aware that employees were engaged in illegal activities without his knowledge.
 - e) The owner does not work at the store, but happened to be there on the day that the compliance check occurred because one of his employees was ill. He does fill in for employees in the event of illness.
 - f) Tobacco has never been sold from the 66 Street location. Illegal tobacco was sold from the 106 Avenue location. However, no tobacco at all is currently being sold from that location.

ii) Position the Decision Makers,

- [15] A representative from EPS who supplied information that is relevant to this licence review is in attendance to answer questions from the Committee.
- [16] There are two different business licences for Brother's Gift and Smoke Shop that are the subject of today's appeal.
- [17] The first is an existing business licence for 1959464 Alberta Ltd. located at 10005 - 106 Avenue NW. This licence was first issued on December 24, 2020 and was most recently renewed on January 13, 2025. The "106 Avenue location".

- [18] The second is a new business licence that was issued on June 18, 2025 to 2458995 Alberta Ltd. located at 12829 - 66 Street NW. The “66 Street location”.
- [19] Although each business has its own distinct legal entity, Corporate Registry records confirm that there is one director and one shareholder for both legal entities, Mr. Ashmalash.
- [20] Both licences were reviewed together to ensure procedural fairness, as the public interest concerns of these reviews are common to both businesses. This allowed for the licensee to prepare one response to address both businesses, and for the decision with respect to each business licence to be based on complete and consistent information.
- [21] During the licence application process for the 66 Street location in January 2025, information from multiple media reports came to light which stated that the 106 Avenue location was under investigation and the owner had been charged with multiple criminal offences in connection with alleged criminal activity.
- [22] A Strategic Planning and Policy Analyst on the team who holds delegated authority of the City Manager under section 11(6) of the *Business Licence Bylaw* to require additional Agency consultations if it is in the public interest requested a consultation with the EPS by email on February 28, 2025 based on the information received regarding alleged criminal activity at the 106 Avenue location.
- [23] On March 18, 2025, EPS responded to advise that they did not support the business licence application for the 66 Street location. EPS provided their observations and details of alleged criminal activity occurring at the 106 Avenue location.
- [24] The 106 Avenue location is a common spot for crowds to form. Drug overdoses are common, and surrounding businesses have concerns about the crowds from Brother’s Gift and Smoke Shop spilling over and causing problems for them.
- [25] EPS investigated the 106 Avenue location on three separate occasions. In May 2023, EPS found 542 packs of contraband cigarettes on the premises and the owner was charged under the Tobacco Tax Act, found guilty, and fined \$5,962.
- [26] In June 2024, EPS found two cartons and two packs of contraband cigarettes. The owner was charged under the Criminal Code of Canada for Trafficking Contraband Cigarettes and Proceeds of Crime; however, these charges were stayed.
- [27] In December 2024, EPS found 27 packs of contraband cigarettes in a hidden compartment under the cash register; along with 94 prohibited knives displayed for sale; stolen clothing with security tags attached; and proceeds of crime.
- [28] EPS also reviewed CCTV footage and observed multiple sales of contraband cigarettes and an employee using bear spray to remove a customer from the store. The employee was charged under the Criminal Code of Canada for Possession of a Weapon Dangerous to the Public.

- [29] The owner and the employee were charged under the Criminal Code of Canada with Trafficking Contraband Cigarettes; Possession of Weapons for Trafficking; Proceeds of Crime; Possession of Stolen Property Under \$5,000; and Fraud Under \$5,000.
- [30] All of these charges are still before the Courts, and the Owner's charges are accompanied by a condition to not be in possession of weapons. The employee who was also charged still works for Brother's.
- [31] EPS also conducted a compliance check at Brother's on Feb. 2, 2025, after a recent amendment to the *Business Licence Bylaw* introduced new requirements for sellers of bear spray. Officers found multiple tasers and cattle prod-like devices displayed for sale. Bear Spray was also being sold and while the business was licensed under the appropriate category, operating requirements with respect to securing bear spray products and logging transactions were not being followed. On March 4, 2025 an employee informed an EPS Officer that bear spray was no longer being sold.
- [32] EPS included Crime Statistics for the 106 Avenue location in their response. There were approximately 100 calls for service, a sharp increase from 2021. Most calls occurred between 8:00 p.m. and 9:00 p.m. and 11:00 p.m. to midnight. The fewest calls occurred from 5:00 a.m. to 7:00 a.m.; 8:00 a.m. to 9:00 a.m. and 4:00 p.m. to 5:00 p.m. The most common complaint category was "other" - which are usually referred to EMS and are believed to be mostly overdose calls.
- [33] The EPS response included a recommendation that a number of conditions be imposed in the event that a licence were to be issued for the 66 Street location - including video surveillance, exterior lighting, incident logging, a no loitering policy, restrictions on purchasing products from unlicensed individuals or patrons from off the street, mandatory staff training, reduced operating hours, and requirements for staff to report criminal activity and cooperate with police investigations.
- [34] Based on the information from EPS, a business licence review for both the 66 Street location and the 106 Avenue location was initiated and a Notice of Review to both Licensees was issued to the owner on May 1, 2025. The Notice of Review included a copy of the consultation response from EPS and current Corporate Registry documents confirming that the owner was the sole director and shareholder for both legal entities. The notice also outlined the potential outcomes being considered for each business licence.
- [35] For the 106 Avenue location, cancelling 2 out of 3 categories on the business licence was proposed in order to prohibit the sale of bear spray and tobacco or vaping products. Imposing conditions that would further prohibit the sale of weapons of any kind, and require the Licensee to notify the City of any new charges against the owner., or the outcome of his current criminal charges once they are resolved was also proposed.
- [36] For the 66 Street location, refusing 1 of 2 categories in order to prohibit the sale of Tobacco and Vaping products, and to issue a licence with the Minor Retail Sales category only was proposed. Imposing the same conditions proposed for the 106 Avenue location was also proposed. Refusing a category to prevent the sale of bear spray was not necessary, as the

application did not identify this as a business activity at the 66 Street location, so this category was never under consideration to begin with.

- [37] On May 22, 2025, the owner provided a response which indicated that contraband cigarettes and bear spray were no longer sold at either location, and that he had stopped selling bear spray a month earlier after EPS asked him to stop for community safety reasons. The owner also declared that he will not sell weapons, and stated that the weapons that were on the premises had been purchased legally from a Canadian wholesaler, and that he had no knowledge of any of them being prohibited knives. He also indicated that four security cameras had been installed outside of both locations to improve community safety, and agreed with the proposed conditions to notify the City of new charges or the outcome of his current charges. Lastly, the owner indicated that he wanted to sell tobacco and vaping products.
- [38] A Notice of Decision to the Licensee, care of the owner, was issued on June 10, 2025. It outlined the decision with respect to each business licence. The decision was based primarily on the information received from EPS and the owner. However, in order to determine the appropriate Retail Sales category, the business licence application for the 66 Street location was also reviewed, public search engine results for the 106 Avenue location, and building permit records for both businesses.
- [39] For the 106 Avenue location, the decision was to cancel the 'Oleoresin (OC) Spray Sales' business category, but maintain the 'Tobacco and Vaping Product Sales' and 'Retail Sales (Minor)' categories. In accordance with section 23(d) of the *Business Licence Bylaw*, the 'Retail Sales (Minor)' category will be replaced with the 'Retail Sales (Convenience Store)' category during the next renewal - as the latter was only added to the *Business Licence Bylaw* after the current term of the business licence had already started.
- [40] For the 66 Street location, the decision was to refuse to issue the 'Retail Sales (Minor)' category, and instead issue the licence with the 'Retail Sales (Convenience Store)' category and the 'Tobacco and Vaping Product Sales' category. The refusal of the 'Retail Sales (Minor)' category was not specifically due to the public interest concerns of this licence review, but rather that the 'Retail Sales (convenience store)' category was recently created in February 2025 to prohibit the sale of knives at convenience and corner stores, and is now the appropriate category for this type of business.
- [41] The decision also imposes the same three conditions on both licences.
- Condition No.1 prohibits the Licensee from selling tobacco products, despite the approval of the 'Tobacco and Vaping Product Sales' category.
 - Condition No. 2 prohibits the licensee from selling weapons of any kind.
 - Condition No. 3 requires the licensee to notify the City of any new charges against the owner, or the outcome of his current criminal charges once they are resolved.

- [42] The goal was to ensure that the owner would be held accountable for addressing the public safety and compliance concerns associated with his business activities, while ensuring the action taken is proportionate to the issues at hand.
- [43] It was his opinion that the owner has not demonstrated responsible stewardship of the 106 Avenue location which results in unresolved concerns about how the 66 Street location will be operated. As the sole Director and Shareholder for both legal entities, the owner is responsible for the operation of both Brothers Gift and Smoke Shop locations which includes maintaining awareness and compliance with all applicable regulations.
- [44] The owner and the 106 Avenue location have been directly implicated in numerous contraventions, including the sale of contraband tobacco products and prohibited weapons, and mishandling of bear spray. These activities have resulted in a previous charge and conviction under the Tobacco Tax Act, previous criminal charges against the owner that were stayed, and current unresolved criminal charges against both the owner and one of his employees. Although it is not the purpose of this review to determine if any of the parties acted criminally, these business activities pose an unmitigated risk to public safety - particularly as the owner was seemingly undeterred from selling contraband tobacco by previous enforcement action, and claimed to be unaware that some of the knives he sold were prohibited.
- [45] Based on this, it was determined that some of the business activities that have proven problematic must be restricted - provided that the restrictions are reasonable and are supported by the evidence and information that were provided.
- [46] Condition No. 1 prohibiting the sale of tobacco products is in direct response to three separate incidents where contraband tobacco was found on the premises. It seems apparent that the owner has, on more than one occasion, sold tobacco unlawfully, so it is reasonable to prohibit any further sale of tobacco products.
- [47] Condition No. 2 prohibiting the sale of weapons, along with cancelling the 'Oleoresin Capsicum (OC) Spray' category not only mitigate weapon-related public safety risks, but also align with the owner's Court-ordered conditions that prohibit him from possessing weapons. They also reflect his own declaration that he no longer sells bear spray.
- [48] Condition No. 3 regarding the owner's criminal charges is required to determine if a re-examination of the conditions or a subsequent licence review is necessary - which may include escalating action or relaxing the existing conditions, depending on the information that is disclosed.
- [49] It was also his responsibility to consider what action would, and would not be reasonable and justifiable based on the information from both EPS and the Licensee. Since EPS did not identify vaping products as a concern and the owner's response indicated that he would like to continue to sell vaping products; The 'Tobacco and Vaping Product Sales' category was not refused altogether as originally proposed. Instead, a condition was imposed that prohibits the sale of tobacco products so the sale of vaping products would still be allowed. Sufficient evidence or information was not provided to support conditions related to social

disorder on, or near the premises - such as a clear and direct link between the business activities and the frequency of emergency calls, or consistency between the timing of emergency calls and the reduction in operating hours recommended by EPS.

[50] Lastly, while EPS's discovery of alleged stolen goods on the premises is concerning, he did not find that this poses a serious or imminent threat to public safety and there was no indication of this being a chronic or recurring issue. It is his opinion that this matter is best left to the courts to decide on - however, if the owner is found guilty of his criminal charges, a subsequent licence review may be undertaken.

[51] Based on this information, along with the additional details provided in the licensing record, it was his recommendation that CSLAC uphold my June 10, 2025 decision to

- Cancel the 'Oleoresin Capsicum (OC) Spray Sales' business licence category on the licence for the 106 Ave location;
- Refuse to issue the 'Retail Sales (Minor)' category on the licence for the 66 St location and issue the 'Retail Sales (Convenience Store)' category instead; and
- Impose conditions on both business licences.

[52] The following information was provided by the respondents and EPS in response to questions from the Committee:

- a) The condition imposed would prevent the sale of tobacco products at either store even though the new location may not have been selling tobacco because both stores both operate under common ownership and leadership - a sole director and shareholder, the owner.
- b) A business licence can be cancelled within the delegated authority provided. However, unless there is a serious and imminent threat to public safety, cancellation is not contemplated on a first review. The goal of the *Business Licence Bylaw* is to gain compliance and promote responsible business ownership as opposed to punishment.
- c) Charges regarding the sale of prohibited and dangerous weapons are still before the Courts.
- d) The EPS conditions were not reflected in the decision because he did not feel that there was a sufficient link between the social disorder and those particular conditions. His concern focussed on the products that were being sold. It was his determination that the condition proposed by EPS to restrict the hours of operation was not supported by the information provided regarding the frequency of calls for service. Therefore, he could not find a clear and justifiable rationale to impose a restriction on the hours of operation.
- e) As the sole director and shareholder, the owner has a responsibility to know what is happening in his businesses. Evidence has been provided that security cameras have

been installed which allows him the ability to observe activities and maintain control over what is happening in his stores.

- f) If there was a real public interest concern triggered by the change in category, it could be addressed during the licence review but it is more appropriate upon a renewal. In this case, the category could have been changed but it seemed redundant because the issue was addressed through the conditions that were being imposed.
- g) EPS has found that the sale of legal tobacco is often used to conceal the sale of contraband tobacco. Owners display legal tobacco products while the contraband tobacco is concealed. Prohibiting the sale of legal cigarettes therefore provides EPS with increased investigative power.
- h) These stores sell cannabis accessories and products, specifically small precut packets of aluminium foil used to ingest illicit substances such as meth and fentanyl. Individuals purchase products inside the store and because the addiction is so strong they immediately use the drugs as soon as they get outside of the store which often results in an overdose and a call for service to EMS.
- i) EPS remains of the view that the condition restricting the hours of operation and closing the business between midnight and 6:00 a.m. improves safety for employees who work alone.

iii) Rebuttal of the Appellant:

[53] The owner has abided by all of the rules and regulations to ensure that his employees are safe. Therefore, the condition that bans the sale of legitimate tobacco products should be overturned. The owner is simply asking to be allowed to sell legitimate cigarettes and has no intention to sell illegal tobacco products.

[54] The owner has implemented a Violence Prevention Policy to address workplace violence. Steps have also been taken to ensure safety for his employees by installing security cameras and a buzzer system. An Emergency Response Plan has also been submitted to the City.

[55] If the hours are restricted, it is more likely that the store will be broken into and this creates a worse situation.

[56] The cameras and buzzer system have been installed to improve safety but it is not economically feasible to have more than one employee working overnight.

Decision

[57] The appeal is **DENIED** and the decision to impose conditions upon Business Licence 367409281-002 and 542149340-001 is **CONFIRMED** as issued, subject to the following **ADDITIONAL CONDITIONS**:

4. The business premises must have video surveillance as follows:
 - a. Video surveillance with recording devices and lighting at the entrance to the business premises of sufficient quality to identify facial features of patrons entering and exiting the business premises.
 - b. Video surveillance with recording devices and lighting to provide complete surveillance coverage of patron areas with sufficient quality to identify facial features of patrons and staff.
 - c. Video surveillance with recording devices and lighting to provide complete surveillance coverage of the cashiers till area, as well as all areas behind the counter in the store.
 - d. Video surveillance with recording devices and lighting to provide surveillance coverage of the direct exterior of the business facing west and south respectively.
 - e. The video surveillance recordings must be retained for a minimum of 28 days. Recordings must be accurately dated and labeled for ease of reference.
 - f. Video surveillance must be accessible by a staff member on site upon request.
5. The store will install additional lighting around the exterior of the entrance and any walls to increase visibility and deter criminal activity.
6. A daily Incident Log must be developed and maintained at the business premises.
 - a. All incidents occurring at the business premises must be documented, including:
 - i. Patron removals,
 - ii. Fights or disturbances,
 - iii. Drug use,
 - iv. Medical events, and
 - v. Any incidents requiring police attendance.
 - b. The Incident Log must be:
 - i. Dated, updated, and signed off by a manager who is on-site and in care and control of the store each day of operation, and
 - ii. Retained for 24 months.
7. Rules and restrictions regarding customers inside the premises will be implemented.
 - a. The store will implement a strict no-loitering policy, both inside, and directly outside in the doorway of the store.
 - i. Clear signage must be posted to inform customers of this policy.
 - ii. Staff will be trained to enforce this rule and promptly request individuals to leave if they are not engaging in legitimate business.
 - b. The store will not purchase products from non-licensed individuals or from random walk-in patrons from the street.
8. All staff will undergo mandatory training on the following:

- a. Handling aggressive and disruptive customers,
 - b. Identifying signs of illegal activity (Drug dealing/Theft),
 - c. Reporting suspicious incidents to law enforcement, and
 - d. De-escalation techniques and conflict management to reduce the likelihood of violent confrontations.
9. All staff must immediately report any criminal activity witnessed on the premises to the police, including drug dealing, assault, or the use of weapons.
10. The store will fully cooperate with any police investigations, including providing footage from security cameras and allowing officers to conduct searches when authorized by law.

Reasons for Decision

- [58] The Committee heard two appeals brought by the Appellant under section 30 of the City of Edmonton *Bylaw 20002 (Business Licence Bylaw)*.
- [59] The appeals were heard contemporaneously as both pertained to a single decision dated June 10, 2025 issued following a Business Licence Review by the Manager of Business Licencing (the “Decision Maker.”) The Decision concerned a Business Licence issued on January 13, 2025 to Brothers Gift & Smoke Shop at 10005 - 106 Avenue NW (the “106 Shop”) and an application for a business licence received November 20, 2024 for Brothers Gift and Smoke Shop at 12829 - 66 Street NW (the “66 Shop”). The Decision stated that the business licences were reviewed at the same time to ensure procedural fairness in the review process. The Decision Maker gave common reasons and imposed identical conditions upon both business licences.
- [60] Except where expressly noted, the reasons in the Committee’s decision apply with equal force to both appeals.

Legal Framework:

- [61] Business Licensing is regulated by the *Business Licence Bylaw, Bylaw 20002* (“the *Bylaw*”). Several sections of the *Bylaw* are relevant to the appeals.
- [62] Section 23(m) of the *Bylaw* authorizes the City Manager to sub-delegate any power, duty, or function under the *Bylaw*. The authority to make the decision under appeal was delegated to the Decision Maker.
- [63] Section 28 grants the Decision Maker the authority to impose licence conditions:
- (1) The City Manager may make a decision to impose conditions on a licence for any reasonable period of time.
 - (2) If the decision to impose conditions on a licence extends beyond the Expiry Date of the licence, the City Manager must provide a date within 2 years of the decision date where the conditions will be re-examined.

(3) At least 14 calendar days before the date of re-examination, the City Manager will send a notice to the Business to provide any information relevant to the re-examination of the conditions.

(4) After re-examining the conditions, the City Manager may decide to keep, remove, or otherwise modify the imposed conditions, or change the period of time of which the conditions apply.

(5) A re-examination of the conditions only requires that the City Manager consider new information. (S.8, Bylaw 20765, May 15, 2024)

[64] Section 2(k) defines the phrase “Licence Review” and acknowledges the Decision Maker’s authority to impose conditions on business licences:

“Licence Review” means a review of the application, or licence, or Business Category to determine if the issuance or renewal will be refused, if the existing licence or Business Category will be suspended or cancelled, or if conditions will be imposed on the licence;

[65] Section 24 authorizes the Decision Maker to conduct Licence Reviews based on specified grounds:

24 The City manager may proceed with a license review if:

(a) the Business Category on the licence does not suit the Business activity;

(a.1) the City Manager becomes aware of an error, including:

(i) the Application contained an error, omission, or other misrepresentation; or

(ii) the licence was issued due to an error by the City; (S.4, Bylaw 20367, April 05, 2023)

(b) there is evidence the Business has breached an existing condition of the licence;

(c) the Business has violated this bylaw, whether or not they have been prosecuted;

(d) there have been violations of other City of Edmonton bylaws related to the Business activities, whether or not they have been prosecuted; or

(e) in the opinion of the City Manager, based on reasonable grounds, it is in the public interest to review the licence under one or more of the

following reasons:

- (i) conditions are required for the proper regulation of the Business licensed under the General Business or Adult Service Business Category,
- (ii) there is evidence the Business is causing or could imminently cause a danger to patrons or the public,
- (iii) the Business failed a safety codes or fire code inspection for reasons that could lead to imminent danger or to serious public harm,
- (iv) concerns are raised by a consulting agency through a consultation in accordance with section 11; or
- (v) any other public interest reason.

[66] The Appellant's right to appeal is found in section 30 of the *Bylaw*:

- (1) A person who has been given a decision under section 26 or 28(4), may appeal the decision within 14 calendar days of the date of service, with the appeal filed in accordance with the provisions of the Community Standards and Licence Appeal Committee Bylaw.

[67] The authority of the Committee to decide appeals of Licensing Decisions which includes decisions to impose conditions on licences issued pursuant to the *Bylaw*, comes from the *Community Standards and Licencing Appeal Bylaw 19003*, Section 2(e). This Committee has the same authorities granted to the Decision Maker in the original Licence Review per Section 8(2) of *Bylaw 19003*.

[68] Section 8(2) of the *Bylaw 19003* states:

When deciding an appeal of a licensing decision or a written notice under section 29.2 of the City's Community Standards Bylaw, Bylaw 14600, CSLAC has the same authorities granted to the City Manager under the applicable bylaw.

Background

[69] (the Owner) is the Sole Director and Shareholder of the corporate licensee for the 66 Shop Location and for the 106 Shop Location.

[70] On November 2, 2024, an application was submitted by the Owner seeking a Business Licence for the 66 Shop.

- [71] On January 28, 2025 during the processing of the 66 Shop application, staff became aware of criminal investigations involving the 106 Shop and that the Owner had been charged with multiple criminal offences arising from events which occurred at that premises.
- [72] On February 28, 2025, based on this information, City staff requested consultation from EPS for both businesses per section 11(6) of the *Bylaw* which allows requests for additional information from Consulting Agencies if it is in the public interest.
- [73] On March 28, 2025 City staff received a response from EPS. This response was included in the Respondent's written submissions to the Committee. The EPS response outlines:
- a. The general situation in and immediately around the 106 shop and at another business location controlled by the Owner which is not the subject of these appeals.
 - b. Statistics showing crime and disorder including the timing, frequency and type of calls related to the 106 Shop Location going back several years.
 - c. Details concerning three separate EPS investigation files, including:
 - i. May 2023 (EPS File #23731725) - a police investigation into the sale of Contraband Cigarettes. A search warrant was executed resulting in discovery of 10840 cigarettes for 542 packs of contraband cigarettes, and ultimately a finding that the Owner personally was guilty of an offence under section 4(4) of the Tobacco Tax Act leading to a \$5,962.00 fine against him. No Criminal Code convictions occurred as a result of this investigation.
 - ii. June 2024 (EPS File #240440294) - a police investigation into alleged trafficking of contraband cigarettes. Surveillance and police observations revealed that contraband cigarettes were being sold. A search warrant was executed resulting in discovery of 2 full cartons and 2 packs of cigarettes. The Owner was charged with two Criminal Code violations: section 121.1(1) Trafficking Contraband Cigarettes and section 335(b) proceeds of Crime. Charges were stayed.
 - iii. December 2024 (EPS File 240938398) - a police investigation where the author of the report was the primary Investigator into potential trafficking of Contraband Cigarettes and Weapons Trafficking. Surveillance footage and observations were gathered to show that Brothers was trafficking contraband cigarettes. Then a search warrant was executed resulting in discovery of: 27 packs of contraband cigarettes stored in a hidden compartment under the cash register, 94 prohibited knives displayed for sale, stolen clothing items with security tags from other stores still on them and proceeds of Crime. The investigators obtained CCTV footage from the premises showing multiple sales of Contraband Cigarettes and an employee (other than the Owner) using bear spray as a weapon to remove a customer. Consequently, the Owner and his employee were charged with several criminal offences, including trafficking contraband cigarettes, possessing weapons for trafficking, proceeds of crime, possessing stolen property

under \$5000, fraud under \$5000 - all contrary to the Criminal Code of Canada. The employee was also charged with possessing a weapon dangerous to the public. All these charges are pending before the court. The employee continues to be employed by the Owner as of March 4, 2025.

- d. On February 2, 2025, after the City implemented the Oleoresin Capsicum (OC) Purchase Bylaws, a compliance check was performed at the 106 Shop. When police attended the 106 Shop the Owner was personally behind the counter. Multiple tasers, and cattle prod like devices were being sold on display, the Owner was selling bear spray under a new business license. The Owner was not abiding by the rules and regulations required to sell bear spray as: the bear spray was not secured and was visible on a shelf, the Owner did not have a customer log of serial numbers and customer information. The Owner was given a warning as this was a first offence of the new rules and regulations.
- e. On March 4, 2025. The consulting officer attended the 106 location and spoke with the employee who had been charged with assault in the OC spray incident. The employee stated they no longer sell OC spray.

[74] Based on the information and statistics outlined in the EPS report, they recommended 8 conditions for the shop at 106 Avenue and the new location at 66 Street.

[75] On May 1, 2025, the Decision Maker sent two Notices of Business Licence Review to the Owner. The Notices attached the EPS Report, outlined potential conditions which might be imposed by the Decision Maker; and, asked for the Owner's response in accordance with Section 25 of the *Bylaw*.

[76] On May 22, 2025 the Owner replied by email, the response was included in the materials the Respondent provided to the Committee:

We no longer sell contraband cigarettes or bare spray at our locations.

I will not sell firearms, ammunition, oleoresin capsicum spray (including bear spray and dog/coyote spray), conducted energy devices (e.g. tasers, cattle prods, etc.), knives, swords, batons, and brass or polymer knuckles at any of my locations. The knives that were found in my location were knives that I purchased legally from a wholesaler here in Canada. I had no knowledge that any of the knives were prohibited knives, as the person I purchased them from provided me with a receipt and I paid GST on that product. If it is found that those are prohibited, I undertake not to sell any more knives or any of the other items above.

When it comes to the Bare Spray, I have a license to sell. The police came to my store roughly 1 month ago and asked me to stop selling it for community safety reasons and I stopped selling Bare Spray.

I undertake not to sell any tasers or cattle-prod devices in any of my locations.

I have installed 4 cameras installed outside of the locations to assist in making it a safer community.

I agree to notify the business licensing program manager for the city of Edmonton in writing of any new charges against me. I will notify you within 30 days of any new charge. I will notify you of the outcome of the current charges against me.

I want to sell Tobacco and vapes at my location.

[77] On June 10, 2025, the Decision Maker issued the Decision:

- a. For the 106 Shop:
 - i. The business category Oleoresin Capsicum (OC) spray was cancelled;
 - ii. The Retail Sales (Minor) and Tobacco and Vaping Product Sales business categories were maintained;
- b. For the 66 Shop:
 - i. The Retail Sales (Minor) business category was refused;
 - ii. The Licence was issued for the Retail Sales (Convenience Store) and Tobacco and for the Vaping Product Sales business categories; and,
- c. For both locations, three conditions were imposed:
 1. The Licensee must not sell tobacco products of any kind or in any form.
 2. The Licensee must not sell weapons of any kind including, but not limited to:
 - a. Firearms and ammunition;
 - b. Oleoresin capsicum spray (including bear spray and dog/coyote spray);
 - c. Conducted energy devices (e.g. tasers, cattle prods, etc.);
 - d. Knives and swords;
 - e. Batons; and
 - f. Brass or polymer knuckles.
 3. The Licensee must, within 30 days of the event, notify the Business Licensing Program Manager for the City of Edmonton in writing of:
 - a. Any new charges against Mr. Shinash Ashmalash within 30 days of the date he is charged; and

b. The outcome of Mr. Shinash Ashmalash's current criminal charges once they are resolved.

- [78] On June 23, 2025, Counsel for the Appellant sent an email to the Committee stating: "He wishes to appeal the board's decision not to grant him a license to sell smokes in his retail store."
- [79] No further written materials or information was filed by the Appellant or Respondent prior to the hearing.
- [80] At the hearing, Counsel for the Appellant confirmed that they wished to appeal both decisions and specifically they objected to the imposition of Condition 1 prohibiting the Licensee from selling tobacco products of any kind or in any form at either the 66 Shop location or the 106 Shop location.

Analysis:

- [81] As previously noted, *Bylaw 19003* grants the Committee the same broad discretionary authority as the original Decision Maker possesses under the *Bylaw* including full authority to make decisions to issue licences, cancel licences, assign business categories and impose licence conditions.
- [82] Accordingly, the Committee considered whether or not the business categories ought to be cancelled or changed and whether or not the conditions imposed by the Decision Maker or suggested by EPS should be confirmed, cancelled or changed.
- [83] The Committee noted that, based on the record before it, to date the Owner has been convicted of only one offence under the *Tobacco Tax Act* and that the remaining criminal charges have not been proven in court. In fact, some charges have been stayed. However, this appeal hearing is not a criminal trial. A stay is not a pronouncement of innocence, it can be granted for many reasons. Furthermore, the legal standards, rights, considerations and repercussions are different. While the rules of fairness and fundamental justice apply to all hearings before the Committee, strict criminal evidentiary rules do not.
- [84] The Committee found that this record concerning charges and police investigations at the 106 Shop was sufficient to establish reasonable grounds that it was in the public interest to conduct the Licence Review for both licences per section 24(e) of the *Bylaw*.
- [85] Next, the Committee carefully reviewed the submissions of the parties concerning the information known about the investigations and interactions with EPS, particularly the aspects which were not disputed. After reviewing all of the written submissions and oral submissions of the parties summarized above, the Committee made the following conclusions with respect to the Decision.

Cancellation of the Business Category Oleoresin Capsicum (OC) Spray licence for the 106 Shop location and issuance of a business licence in the Business Category Retails Sales (convenience Store) Category for the 66 Shop location rather than the Business Category Retail Sales (Minor).

- [86] The Committee affirms the decision to cancel the business category Oleoresin Capsicum (OC) spray for the 106 Shop licence and the decision to issue a licence in the business category Retail Sales (Convenience Store) category for the 66 Shop.
- [87] The Committee agrees with the rationale provided by the Decision Maker in the Decision and finds that the conclusions concerning the selected business categories align with the Appellant's stated intentions in his written and oral submissions.
- [88] The Committee confirmed this cancellation for several reasons:
- a. The Appellant did not object to this aspect of the Decision.
 - b. The Appellant did not dispute the allegations that the closed circuit surveillance footage shows that OC spray had been illegally deployed on a customer at the 106 Shop, resulting in criminal charges against the employee and the Owner which have not yet been resolved.
 - c. The Appellant did not challenge the information provided in the EPS report that Bylaw regulations pertaining to the sale of OC spray were not being followed by the Owner resulting in the issuance of a warning to him.
 - d. The Appellant acknowledged social problems can be associated with selling these products at the 106 Location.
 - e. The Appellant stated that he was no longer interested in selling OC spray after the police asked him to stop selling it for community safety reasons.
 - f. The cancellation aligns with court ordered conditions that have been imposed on the Owner.

Condition 1: Licensee must not sell tobacco products of any kind in any form.

- [89] The Appellant strongly objected to the imposition of this condition.
- [90] The Committee considered the Appellant's arguments that the condition should not be imposed on either licence which included:
- a. The Owner had no knowledge that employees were selling illegal tobacco which was hidden in a secret drawer, he was charged only as the owner/operator of the business.
 - b. The Owner took concrete steps to stop the sale of illegal tobacco in his premises so the potential for harm has been removed. He installed security cameras when he became aware that employees were engaged in illegal activities without his knowledge.
 - c. There have been no new allegations of selling contraband tobacco since December 2024 proving it is no longer occurring.
 - d. There are no allegations of any illegal activities regarding the 66 Shop so it is unfair to impose Condition 1 on that licence based on events that happened at the 106 Shop.
 - e. Unlike the sale of prohibited knives and weapons which is a concern, the sale of legitimate cigarettes does not cause danger or harm, nor a risk to public safety.

- [91] The Committee disagrees and affirms Condition 1. The Board determined that Condition 1 ban on sale of all tobacco products was warranted for several reasons.
- [92] First, the submissions before the Committee show a pattern of disregard and non compliance with applicable laws.
- a. Based on the information before it, the Committee finds that the sale of contraband cigarettes at the 106 Shop was not an isolated event.
 - b. Activities occurring at the 106 Shop over 18 months led to three separate EPS investigations and to additional visits to the premises which revealed non-compliance with the other bylaws and that illegal items were on offer for sale at the shop.
 - c. The investigations and compliance checks revealed that contraband tobacco, prohibited weapons and stolen clothing were being sold contrary to the law. Furthermore, the rules pertaining to the sale of OC spray enacted for public safety were not being adhered to by the Owner.
- [93] Next, the Committee finds it more likely than not that the Owner was aware that contraband cigarettes were being sold at the premises for the following reasons:
- a. The Owner was convicted personally and fined over \$5000 based on events which transpired in May 2023.
 - b. The Committee heard that, after the first incident, the Owner installed security cameras when he became aware that employees were engaged in illegal activities without his knowledge. Despite this action, just over a year later, another EPS investigation supported by surveillance revealed more contraband cigarettes for sale in the 106 Shop.
 - c. Then, six months after that, a third investigation supported by surveillance revealed more packs of contraband cigarettes in a hidden drawer as well as prohibited knives and stolen clothing with security tags available for sale at the premises.
 - d. These three investigations over 18 months led to charges against employees and the Owner, some charges were stayed, others remain outstanding.
 - e. The EPS stated illicit sales appear on the CCTV footage taken from the cameras that the Owner had installed during this 18 month period. The Owner did not dispute this assertion.
 - f. Further, there was no evidence whatsoever that the Owner imposed any repercussions on the responsible employees. To the contrary, the only evidence is that the employee charged in the bear spray incident was still working in the shop with the Owner as of March 2025.
 - g. Initially, Counsel for the Appellant indicated that the Owner did not personally work in the 106 Shop, but later it was acknowledged that the Owner did sometimes fill in at the premises for sick employees or emergency situations. His Counsel acknowledged that, as noted in the EPS report, the Owner was in the shop behind the counter during a compliance check on February 2, 2025 when it

was determined that the Owner was not abiding by the rules required to sell bear spray.

- [94] Furthermore, even if the Committee is wrong and the Owner did not have any personal knowledge about the sale of contraband cigarettes at the 106 Shop, that would not change the Committee's decision. In the Committee's view, the Owner is responsible as the sole shareholder, sole director and business operator for the way business is conducted on the premises. Business owners are expected to know and to control the things that are happening on their premises and the actions of their employees. They are responsible to ensure illegal items are not sold on the premises and that municipal bylaws and other laws are followed.
- [95] The Owner's duty to exercise due diligence and oversight only increased in this case after he became aware of the first, the second, and then the third set of charges. The Owner had access to his CCTV which the Committee heard showed illicit sales. The Owner had control over hiring, staffing, training and discipline. The Committee finds the Owner has not met the obligation to ensure illegal sales were not occurring at his place of business since May 2023. The uncontroverted record also shows other illegal goods were offered for sale and the bylaw rules for selling OC spray were not being adhered to by the Owner who was personally present during one of these compliance checks and was directly issued a formal warning about noncompliance.
- [96] The Committee acknowledges that not all of the charges have been proven in court, some were stayed and others remain outstanding. However, there is no legal entitlement to a Business Licence, it is not a *Charter* right. Business licences can be denied, conditioned or cancelled. Further, this appeal is not a criminal trial - the evidentiary burdens and legal entitlements are not the same, the consequences for the participants are not the same and the Committee is governed by different guiding principles balancing fairness to licensees and the public interest and safety for employees, patrons and the public.
- [97] The Committee also agrees with the Decision Maker that it is reasonable to apply Condition 1 to both locations because both shops operate under the common ownership and leadership of the Owner, a sole director and sole shareholder.
- [98] Finally, the Committee accepts the submissions by EPS and the Decision Maker that the sale of legal tobacco is often used to conceal the sale of contraband tobacco. Therefore, the Committee concludes that Condition 1 makes the sale of contraband tobacco less likely and it also provides the EPS with increased investigative power, both of which are in the public interest in the circumstances of this case.

Condition 2: Prohibition on selling weapons of any kind including, but not limited to the listed items.

- [99] The Committee confirms Condition 2 prohibiting the sale of weapons at both shop locations for the following reasons:

- a. Several of the items on the list are prohibited by law and it is an offence to sell them in any event.
- b. The Committee heard uncontroverted statements that selling these weapons in the immediate area adds to significant social discord and danger to passersby and to the public in general.
- c. The Appellant did not object to the imposition of this condition and stated he is willing to comply with it. The Appellant indicated in his earlier submissions, and again at the hearing, that he was previously unaware that some of the weapons he was selling were prohibited and that he has stopped selling them in any event after becoming aware of their legal status and the potential impact they might have in the area.

Condition 3: requirement to disclose any new charges against the Owner and the outcome of pending criminal charges against the Owner

[100] The Committee confirms Condition 3 for the following reasons:

- a. The disclosure of this information is in the public interest. This information may lead to reduced conditions, increased conditions or licence cancellation.
- b. The Owner indicated he is willing to report any new charges against him within 30 days of the date he is charged as well as the outcome of the current criminal charges once they are resolved.

Eight Conditions Recommended by EPS, Consulting Agency:

[101] The Committee imposes Conditions 1-7 inclusive as suggested by the EPS in the Consultation Report (and reproduced above) on both Business Licences for the following reasons:

- a. While the Decision Maker did not impose these conditions, the Committee finds them in the public interest and reasonable given the statistics associated with the 106 Shop and information described in the EPS report and given the surveillance information.
- b. The conditions were reviewed verbatim with the Appellant's Counsel and the Owner at the hearing. They had no objections to Conditions 1-7 inclusive as worded.
- c. The Owner recognized the merits of the conditions and had in fact already implemented many of the requirements contained in these conditions to make the shop, its employees and patrons safer.

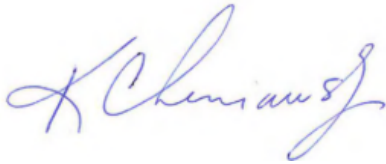
[102] Condition 8, the final condition suggested by EPS was that the store reduce its hours of operation by closing before 12:00 AM and opening no earlier than 6:00 AM. The Committee considered the mixed submissions on the merits of this condition.

[103] In the Committee's opinion, the statistical information provided by EPS did not show an increase in the number of calls during this 6 hour window.

- [104] The Decision Maker also concluded that the statistics supplied by EPS did not support the proposed restriction in hours.
- [105] The Appellant argued that keeping the store open 24 hours a day enhances safety as employees can monitor customers coming and going. Also, it was their experience that more break-ins and property damage occurred when the shop was closed. To address safety, the Appellant installed Cameras and a buzzer system to control after hours entry and implemented a Violence and Harassment Prevention Policy and an Emergency Response Plan.
- [106] In view of the mixed submissions, the Committee could not conclude that Condition 8 was warranted in the public interest and declined to impose it.

Conclusion:

- [107] For all of the above reasons, the Appellants request to remove Condition 1 imposed by the Decision Maker is denied. The Committee confirms the Decision including the Conditions in Schedule A. The Committee adds Conditions 1-7 inclusive as proposed by EPS and reproduced above. **Those conditions shall be numbered Conditions 4-10 inclusive.**

A handwritten signature in blue ink, appearing to read "K. Cherniawsky".

Kathy Cherniawsky, Chair
Community Standards and Licence Appeal Committee