

**EDMONTON
COMMUNITY STANDARDS AND LICENCE APPEAL COMMITTEE**

Citation: Applicant v Development Services (City of Edmonton), 2025ABECSLAC 10009

Date: July 29, 2025
Order Number: 089490433-001
CSLAC File Number: CSLAC-25-009

Between:

Applicant

and

The City of Edmonton, Development Services

Committee Members

Kathy Cherniawsky, Chair
Karen Munro
Joel McDonald

DECISION

- [1] On July 15, 2025, the Community Standards and Licence Appeal Committee (the “Committee”) heard an appeal that was filed on June 6, 2025. The appeal concerned the decision of the Program Manager, Business Licensing to impose conditions on Business Licence 089490433-001 issued to 1444111 Alberta Ltd. (The Pint), pursuant to sections 24 to 26 of *City of Edmonton Bylaw 20002 (Business Licence Bylaw)*
- [2] The subject property is located at 100, 10125 - 109 Street NW, Edmonton.
- [3] The appeal hearing on July 15, 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 City of Edmonton submissions, including a submission from the Edmonton Police Service; and,
 - The Appellant’s reasons for appeal.
- [4] The following exhibits were presented during the hearing and form part of the record:
 - Exhibit A – Written submission from the Appellant;

- Exhibit B - Signed Liquor Liability Form; and
- Exhibit C - Appellant Speaking Notes

Preliminary Matters

[5] At the outset of the hearing, the Chair confirmed with the parties in attendance that 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 appeal was filed on time, in accordance with Section 30(1) of the *Business Licence Bylaw*.

Summary of Hearing

i) *Position of the Appellant, 1444111 Alberta Ltd. (The Pint)*

[8] The seriousness of the incident that occurred in February 2024 was acknowledged. However, it was his opinion that the three imposed conditions on the Business Licence are unnecessary, disproportionate, and potentially damaging to both the business and its employees.

[9] The Pint has operated in Edmonton for over 15 years, serving more than 1.6 million patrons. Until this incident, a licence review or enforcement action has never been required by the City of Edmonton.

[10] In February 2024, an isolated incident occurred when a patron was refused entry as per their operating guidelines, specifically, *Business Licence Bylaw* section 37(c) and the Business Operation Plan. An altercation occurred and as a result charges were laid against all three staff members including R.W., the Assistant Manager, who pleaded Not Guilty.

[11] The City's concern regarding the incident and the importance of maintaining public safety were acknowledged. However, the business has taken extensive and documented steps to ensure that such events do not occur.

[12] These steps include the requirement to have Liquor Liability and Conduct Policies signed by all three staff members involved; a comprehensive Employee Manual that outlines the roles and responsibilities of Security as well as Emergency procedures in the event of injury; copies of which have been provided. In addition, all Security and Management have to be ProTect certified in response to the requirement of the City contained in a letter dated April 22, 2025; the provision of third-party training in collaboration with EPS and AGLC; the implementation of a comprehensive online incident reporting system and collaboration with AGLC to develop the "Best Bar None" program that holds licensed premises to a higher standard.

- [13] These measures demonstrate responsible operation and corrective action that exceeds industry best practices.
- [14] It was his opinion that Condition No. 1 and 2 have already been addressed. They require formal documentation of their conduct policies which were already part of the staff training and orientation prior to the review. Liability forms signed by each staff member involved in the February 24 incident have been submitted. In addition, the Employee Operation Manual and Operational Plan required and accepted by the City already address these issues.
- [15] He asked the Committee to acknowledge these measures as completed and remove Condition No. 1 and Condition No. 2 from their Business Licence.
- [16] It was his opinion that Condition No. 3 which precludes R.W. from any position involving care or control at the business is disproportionate and risk-laden. It is excessive given that there is no conviction. There needs to be a presumption of innocence to allow due process.
- [17] Moreover, naming an individual in licensing conditions may violate their right to privacy and cause long-term reputational damage.
- [18] He asked the Committee respectfully to acknowledge that Conditions No. 1 and No. 2 have already been satisfied. Conditions presented on the business licence have no material effect other than potential harm to the business when all of those measures are currently in place. In addition, he has been advised that conditions placed on a licence could lead to increased insurance premiums and/or difficulty securing future coverage.
- [19] Condition No. 3 should be removed or modified to reflect the ongoing legal process, the outcome of which they are required to disclose to the City pursuant to section 10(a) of the *Business Licence Bylaw*.
- [20] It was his hope that the Committee will consider the broader operational, legal and reputational implications of maintaining these conditions.
- [21] The February 17, 2024 incident represents an isolated occurrence in an otherwise exemplary 15-year operating history. The Pint has demonstrated consistent commitment to public safety through its comprehensive policies, staff training, and compliance record.
- [22] The imposed conditions are disproportionate to the risk presented and fail to account for their proven track record; existing safety measures and policies; the isolated nature of the incident and the ongoing judicial process.
- [23] Public interest will be better served by allowing the judicial process to conclude while maintaining the proven operational standards of the business rather than imposing punitive conditions based on unresolved allegations that may jeopardize the sustainability of the entire operation.

[24] In response to the incident, the business acted promptly, documented all actions and cooperated with all authorities. Meaningful improvements have been implemented, specifically revising the Liquor Liability form to “Liquor Liability and Workplace Conduct Acknowledgement” which is more encompassing.

[25] They are not attempting to avoid accountability but are seeking a fair, proportionate and constructive resolution.

[26] The following information was provided in response to questions from the Committee:

- a) He clarified that all five conditions are being appealed. It was his opinion that the submission of the Operational Plan and the executed Liquor Liability forms amount to compliance with Condition No.1 and Condition No. 2. Condition No. 4 is already a requirement under the *Business Licence Bylaw*, if R.W. is convicted that information has to be provided to the Business Licensing Program within 30 days. However, this legal process may not be resolved for up to two years. He questioned why this should be imposed as a condition when it is already required by the *Business Licence Bylaw*.
- b) Ninety percent of the staff have already signed the amended Liability and Workplace Acknowledgement forms, A copy of the executed form signed by R.W. was submitted as Exhibit B.
- c) He does not remember the entire description of the incident provided by EPS. It was clarified that EPS reviewed other video footage that is not available to him. He reviewed video footage from their security camera and saw a patron who was refused entry become aggravated and belligerent. The situation escalated and management, including R.W. intervened. R.W. attempted a basic hold on the patron that slid up into the neck area. The other employee who he saw strike the patron was terminated immediately. the Licensee acknowledged that this was a very serious incident.
- d) Condition No. 3 is a prohibition on R.W. being employed in a Care and Control capacity. While still employed, he has voluntarily stepped aside and another Manager who is in charge of Care and Control is always in the building with him. His objection to the imposition of the condition is based on the principle that someone has taken a snapshot of his career and determined that he is not worthy of this job, a job he has done very well for many years.
- e) It was acknowledged that R.W. is still listed as a Manager on a document that was submitted. He could not confirm whether or not he has been removed as a Manager who could be in charge of Care and Control from this document since he voluntarily stepped back. There are six Manager positions because the General Manager will not always be on site. R.W. has voluntarily stepped aside from a person solely in charge of Care and Control. He chose to step aside. It was his opinion that R.W. is not a concern or a harm to patrons but instead, because of his experience, he is the best person to have in charge of Care and Control. He would return R.W. to his former position if he asked.

- f) When he saw the video, he saw one individual striking the patron and that individual was terminated immediately. However, the actions taken by the other two employees were inconclusive and did not warrant termination. Discussions have occurred with these employees regarding how this incident could have been avoided. He disagrees that R.W. should be singled out by the imposition of Condition No. 3 on their business licence.
- g) The *Business Licence Bylaw* already requires information to be provided to the City Manager within 48 hours of a request so he questioned why this requirement is being imposed as a condition on the business licence.
- h) There is no basic hold training. Employees are informed that choking and kicking are not permitted. EPS has provided some in-service training on how to deescalate a situation for their employees. Their practice is to overwhelm an unruly patron by numbers which means that three large employees surround the individual who in 99 percent of the situations decides to retreat. They also have a robust online reporting system which requires the ejection of patrons to be documented through an online portal. Retention of this information is imperative because every situation could come full circle into a civil issue. The information collected has also been provided to the City.
- i) The video has been reviewed with R.W. and he was asked to explain his actions. He knows that this is a very serious incident that is not condoned and he understands the gravity of the situation. He has voluntarily stepped back from his position in Care and Control. It was his opinion that requiring him to take sensitivity training or Verbal Judo would not improve public safety. He understands that what he did was wrong, but it was a situation where everything went wrong. If he had not voluntarily stepped back his position would remain status quo until the conclusion of the legal process. There are employee standards that have to be considered in a demotion or termination. If he is convicted he would automatically be precluded from serving as a Manager in Care and Control and it would remove the requirement to comply with employment standards. A succession program has been designed in the event that R.W. is convicted of the charges.
- j) The actions of R.W. evolved during the incident, were not intentional and therefore did not violate their company policies. Discussions have been held with R.W. regarding the severity of the incident and how the situation could have been handled differently.

ii) Position of the Decision Maker:

- [27] On January 23, 2025, members of the Business Licensing Program received Police Information Checks for The Pint's owners and managers, and forwarded these to the Public Safety Compliance Team for a consultation - which is a requirement under the *Business Licence Bylaw* for all Minors Prohibited drinking establishments when applying for, or

renewing a business licence. The Police Information Check for one of the managers, R.W., disclosed an unresolved criminal charge for Aggravated Assault.

[28] He became aware of the public safety concerns with The Pint on January 30, 2025 upon receiving the Public Safety Compliance Team's response and recommendation from EPS Acting Sergeant who did not support R.W. to be in care and control of a licensed drinking establishment and provided the following details of the events related to the allegations in his criminal charges:

- a) On February 17, 2024 a patron exited The Pint and attempted to re-enter; however, the patron was denied entry by a bouncer.
- b) A verbal argument began between the patron and the bouncer, and escalated to a physical altercation between the patron, R.W., and several bouncers.
- c) R.W. placed the patron in a choke hold and threw him to his stomach. He and several staff pinned the patron to the ground, with the patron's head resting on the stairs and his body resting on the landing in a distorted position.
- d) R.W. was seen holding the patron's hands and arms and pushing on his head and face while his head was on the stairs. The patron's blood was also seen running down the stairs.
- e) R.W. released the patron from the choke hold, and a bouncer punched him in the face twice with an arm that appeared to be wrapped in hard plaster.
- f) The police arrived and assisted the patron to an ambulance. The patron collapsed and was unable to walk on his own. He was transported to the hospital with serious injuries.
- g) The patron was also determined to have lost consciousness during the assault.
- h) Police obtained CCTV footage, witness statements, and witness video that corroborated these allegations.

[29] EPS also noted that R.W. did not have any other documented criminal involvement or history of violent behaviour.

[30] Based on this information, a business licence review for The Pint was initiated and a Notice of Review was issued to the Licensee on March 5, 2025. The Notice of Review included a copy of R.W.'s police information check, along with the information from EPS, and outlined three potential conditions that he was considering imposing on The Pint's business licence:

- a) One proposed condition would place limitations on R.W.'s employment duties at The Pint - either by prohibiting him from working on the premises in any capacity while The Pint is open to customers, or by only allowing him to work on the premises in a non-management capacity and under the direct supervision of a manager.
- b) The second proposed condition would require the licensee to inform the City of any new charges against R.W., or the outcome of his aggravated assault charge.
- c) The final proposed condition would require the licensee to comply with the approved operational plan - which is already a bylaw requirement; however, imposing this condition would increase the penalty amount from \$250 to \$2,000.

- [31] The Licensee was given the opportunity to respond by March 26, 2025 with any additional information or evidence for consideration. The Licensee was also asked to provide a new draft operational plan with revisions to the patron management section to address use of force when patrons are removed or refused entry - specifically: who is allowed to use force; policies and procedures related to use of force, including injury prevention; response procedures if a patron is injured; required qualifications; and performance management policies if excessive or unreasonable force is used.
- [32] The operational plan is a requirement for all Minors Prohibited drinking establishments under the *Business Licence Bylaw*. One purpose of the operational plan is to support businesses in identifying and implementing safe and responsible business practices and complying with bylaw requirements - including patron management. Once the plan has been approved by the City, it is binding and enforceable under the *Bylaw*.
- [33] A response was received on March 24, 2025 from the Licensee. He described both The Pint's operating history and R.W.'s employment history that has been unblemished for the past 15 years. He explained that The Pint has a good working relationship with compliance teams, and an extensive operating manual that staff are expected to adhere to. Regarding R.W.'s involvement in the alleged assault, the Licensee indicated that the charges have not been proven in court, but that if he is found guilty, staffing adjustments would be made on a voluntary basis. The Licensee explained that the incident was reviewed with R.W., who now understands his role and how he could have handled the situation differently, and R.W. does not pose a risk to patrons or the public. No further details were provided regarding how the incident was addressed with R.W., or what staffing adjustments would be made.
- [34] The response also included a revised operational plan as requested; however, the revisions did not sufficiently address most of the points he had identified. The only reference to the use of force in the revised operational plan was as follows:

“In situations where immediate control or removal is in the public’s best interest, they will be controlled and/or removed by Security with measured force to the best of our ability to control the situation.”
- [35] The response did, however, include the Security Staff Guidelines from The Pint’s operating manual, which addressed some of these points - particularly that The Pint has a ‘No Striking’ policy that prohibits punching, choke holds, head butts, kicking, or striking of any kind; that patrons must only be physically removed using basic holds; and that all Security Personnel must have provincial security certification - which, in Alberta is ProTect certification from Alberta Gaming, Liquor, and Cannabis.
- [36] The response and documents supplied did not address performance management policies for staff who use inappropriate force, qualifications of security personnel specific to physical restraint, or procedures for responding when a patron is injured during removal or

refusal - although the Operating Manual did include a procedure for responding to a Violent Assault.

- [37] A letter was sent to the Licensee on April 9, 2025, requesting further information due to these unaddressed points. However, another revision to The Pint's operational plan was not requested because although they were not in the form specified, the information requested about who can use force and their qualifications had been addressed at least in part by The Pint's Operating Manual and it was determined that it would be more constructive to work with the materials The Pint already had in place.
- [38] The Licensee was asked to confirm that all active security staff have ProTect certification as required by the Operating Manual and to submit a copy of the February 17, 2024 incident log as required pursuant to Section 37(e) of the *Business Licence Bylaw*.
- [39] A written response was received on April 23, 2025. the Licensee explained that the response procedure for patron injuries during removal or refusal was the same as for a violent assault which was provided with the initial response. He also advised that The Pint has a policy of immediate termination of employees for any criminal activity where the circumstances are clear, and one of the employees involved in the February 17, 2024 incident was terminated. R.W. and one other employee involved in the incident were still employed, but their employment status may change based on the outcome of the charges, or if new evidence is introduced.
- [40] It was confirmed that all security staff are ProTect certified. They are not specifically trained on basic holds. Staff are trained to identify actions that are not allowed by the 'No Striking' policy, and that despite limited resources available for training security staff, the Licensee previously arranged for AGLC and EPS to speak with staff and management. He also explained that The Pint has worked with stakeholders to develop the Best Bar None program, AGLC best practices, and bystander intervention training.
- [41] The Pint's Liquor Liability form, must be reviewed and signed by all staff to acknowledge their responsibilities regarding the sale and service of liquor. Copies of the forms that were signed by R.W. and the other two individuals involved in the February 17, 2024 incident were provided, and the Licensee explained that The Pint is intending to amend the form to require staff to acknowledge the 'No Striking' policy.
- [42] The response did not include a copy of the incident log, so it was requested by email on April 24, 2025. An email response was received the same day with a summary of the electronic incident log, as well as links to an incident report form and several EPS witness statement forms. Ultimately, these documents did not offer much new useful information, other than some additional context for how the altercation began and confirmation that the Licensee was compliant with the incident reporting requirements.
- [43] After considering all of the information from EPS and the Licensee, a Notice of Decision was issued on May 22, 2025 imposing five conditions on The Pint's business licence. Conditions 1 and 2 address important, yet easily correctable gaps in The Pint's patron management measures by establishing a formal post-incident response procedure for patron

injuries while being removed or refused entry, and implementing measures to ensure staff awareness and acknowledgment of both the post-incident response procedure, and The Pint's existing 'No Striking' policy.

- [44] The first two conditions were not originally proposed in the Notice of Review, because it was the intent to have the Licensee address the concerns related to use of force through the Operational Plan. However, the Licensee did not sufficiently revise the Operational Plan, so after reviewing all of the submitted information (specifically The Pint's operating manual and liquor liability form), conditions were imposed on the licence that would allow the Licensee to address the concerns by amending and utilizing its own existing materials instead.
- [45] Conditions 3 and 4 are related to R.W.'s continued employment at The Pint. These conditions prevent the Licensee from employing R.W. in a management capacity while his Aggravated Assault charge is unresolved, and require the Licensee to inform the City of the outcome of the charge, or of any new charges against R.W.. Condition 3 also allows R.W.'s management duties to be immediately reinstated if he is not convicted without requiring a formal re-examination of conditions.
- [46] Condition 5 requires the Licensee to comply with the approved Operational Plan.
- [47] A number of factors were considered in making this decision. First and foremost, it was acknowledged that there is no evidence to suggest that any incidents similar to the one on February 17, 2024 have occurred at The Pint. However, this incident was, in his opinion, egregious. It occurred during the course of business, involved a level of force that resulted in serious and potentially life-altering injuries for the patron, and led to serious criminal charges against three employees, one of whom was, and continues to be entrusted with management responsibilities. Although not a typical occurrence, the seriousness of this incident must be taken into account. The *Business Licence Bylaw* requires drinking establishments to remove or refuse entry to patrons who are disorderly or intoxicated - but it is the responsibility of the Licensee to take reasonable measures to avoid causing harm when doing so.
- [48] Although it is not his role to determine if the employee's actions were criminal, the information from EPS and the fact that there was sufficient evidence to charge three employees with Aggravated Assault strongly suggests that at a minimum, the employees involved violated The Pint's own policies. The patron was punched and held in a choke hold - both of which are prohibited actions under the 'No Striking' policy - and held in a contorted position for an extended period of time. Furthermore, the information suggests that the patron was punched after he had already been subdued, and that the use of force far exceeded a basic hold, or a reasonable level needed to bring the situation under control.
- [49] The Licensee provided only vague information about corrective actions to address performance issues related to use of force - both in general, and in relation to the two employees involved in the incident who are still employed by The Pint. The Licensee's response states that employees involved in criminal activity are terminated when circumstances are clear; however, no other measures were discussed in detail - including

possible disciplinary action, training, additional supervision, a change in duties, or any other action that could potentially be taken to address performance.

- [50] As a manager in care and control of a licensed drinking establishment, R.W. must be held to a higher standard of accountability for patron management - both in terms of being able to respond appropriately to challenging patron interactions, and in the example he sets for his employees. With no other apparent mitigation measures in effect, his concern is the fact that R.W. will remain in care and control of The Pint while his charges are unresolved.
- [51] A number of mitigating factors were considered based on the information provided by the Licensee.
- [52] The Pint's existing 'No Striking' policy sets clear expectations about when use of force is allowed, and what level of force is acceptable. In this case, it was not followed. However, it will help to prevent a recurrence provided that employees are aware of it and held accountable for following it. The Pint already has a Liquor Liability form which is used to inform employees of their responsibilities and document their acknowledgement, and the Licensee has stated they intend to update it with reference to the 'No Striking' policy.
- [53] It is also his opinion that The Pint has generally been a well-run establishment. There have been no previous licence reviews involving The Pint and no evidence that other serious incidents have occurred in The Pint's 15-year history. Furthermore, the Licensee has taken proactive steps to ensure employees have guidance on patron removal and refusal despite limited resources available, and has established and maintained industry accreditation on best practices. R.W. also has a long employment history with no other serious incidents or criminal history - so his continued employment at The Pint in a non-management capacity would pose a relatively low risk.
- [54] Even after considering this information, it was his determination that some conditions are still necessary to provide clarity in The Pint's injury response procedures; to ensure the Licensee's liquor liability form is updated in a timely manner to address the 'No Striking' policy; and to ensure the Licensee informs both current and future employees of patron removal and refusal requirements.
- [55] Conditions have been imposed that in his opinion are reasonable and straightforward for the Licensee to implement. Conditions related to policies, procedures, and employee acknowledgment can be satisfied with minor amendments to the existing operating manual and liquor liability form that The Pint already has in place - which were clarified for the Licensee in a meeting on June 5, 2025. The decision also provides the Licensee with a 30-day timeline for existing employees to be made aware of the changes. The conditions also allow the Licensee to continue their employment relationship with R.W., and to reinstate his management duties in the event that he is not convicted of Aggravated Assault.
- [56] In a meeting held on June 5, 2025, the Licensee raised concerns for R.W.'s personal privacy, particularly as it is a requirement under the *Business Licence Bylaw* that a copy of the conditions be maintained on the premises and made available upon request of a Bylaw Enforcement Officer. While he appreciated these concerns, the primary consideration is for

the safety of patrons at The Pint and it was his opinion that it is both appropriate and necessary to name R.W. in the conditions given that the public interest concerns of this review are the direct result of his actions while fulfilling his employment duties. However, it was suggested that this could be addressed by keeping a redacted physical copy on the premises that would be accessible to any manager to present to a Bylaw Enforcement Officer, and an unredacted digital copy that would be available to a designated person who can be contacted to provide it if necessary.

[57] Based on all of this information, it was his recommendation that CSLAC uphold the May 22, 2025 decision to impose conditions on The Pint's business licence.

[58] The following information was provided in response to questions from the Committee:

- a) It was clarified that Conditions No. 1 and No. 2 are not requirements of the *Business Licence Bylaw*. The approved Operational Plan addresses specific measures that a business would take to comply with key *Bylaw* requirements but it is not a comprehensive Policy and Procedure manual. It does not necessarily have to address use of force. These plans are reviewed by the Municipal Enforcement Team for recommendation before a decision is made. Given the public interest concerns in this case, an updated plan that addresses use of force was requested. the Licensee chose to provide an Operational Manual and the Liquor Liability form instead.
- b) Condition No. 1 and No. 2 address two aspects of the use of force. Specifically, the 'No Striking' policy to make sure it is distributed and acknowledged by staff. The other is to create a policy around injury response if a patron is injured during removal. This could be accomplished by updating the existing Violent Assault Policy. They are looking for the distribution of the policy and a small amendment to another policy circulated and acknowledged by staff.
- b) He is not an expert on holds and has limited resources to draw from. the Licensee has identified ProTect certification and it was acknowledged that he has gone above and beyond by having EPS and AGLC work with his employees. A licensed Security Guard has more training in physical holds but this is an added expense for a business owner.
- c) Condition No. 1 and Condition No. 2 have been partially met based on the information provided today. The 'No Striking' policy is addressed in the Liquor Liability form which is now the Liquor Liability and Conduct Acknowledgement form. However, It cannot be confirmed that this has been circulated and signed by all current staff. The condition also requires this to be done with future employees. The other part that does not appear to have been met is the update to the Violent Assault policy to include the scenario around patrons who are injured during removal. This is the easiest path to compliance simply by updating the heading if the same policy applies in both scenarios. Again, he could not confirm circulation and acknowledgement by employees.

- d) The conditions do not address harassment, this was done voluntarily by the Licensee. During the review process, he was advised that the procedures followed in the event of a Violent Assault outlined in the Operational Manual would apply to patrons injured during removal or refusal. Condition No. 1 would be met if this was updated to address that specific scenario and the corresponding policy update be part of the Liquor Liability and Workplace Conduct Acknowledgement form.
- e) Conditions No. 4 and No. 5 are explicit and provide more clarity. In terms of any updates. Condition 4 is intended to potentially trigger a re-examination of the conditions pursuant to section 28 of the *Business Licence Bylaw*. Condition No. 5 means that all of the measures identified in the Operational Plan are subject to a higher fine amount.
- f) Condition No. 3 is required because he is concerned about the incident. However, the individual has an unblemished 15 year work history. In the absence of anything else, there is information from EPS that suggests that R.W. was involved as an aggressor while information from the Licensee suggest that the circumstances are unclear. Therefore, in the absence of anything more concrete, he has to allow the process to unfold. Conditions No. 1 and No. 2 also provide some protection because R.W. has to be informed and sign off on the policies. Conditions No. 1 and No. 2 stand on their own in the absence of a conviction of R.W. to ensure that all employees are informed of the policies. He is not satisfied with voluntary compliance and he would have preferred that the Licensee take some preventative action in the interim by mandating the changes rather than leaving it up to R.W.
- g) Conditions No. 1 and No. 2 do still stand to ensure that all employees, current and future, are informed of the policy and required to provide acknowledgement. It is difficult to get information about voluntary compliance.
- h) EPS clarified that individual companies provide safety training, including conflict resolution and nonviolent resolution. Neither EPS nor AGLC offer training to members of the public. EPS does discuss best practices with businesses but it is not a formalized training program.
- i) The seriousness of an incident has to be considered. There is usually a bit of a pattern that would emerge, but in this case the seriousness of the incident, the involvement of three employees and the extent of the injuries lead to his decision.

iii) Rebuttal of the Appellant:

- [59] In his opinion they are compliant with Conditions No. 1 and No. 2. During previous discussions with Business Licensing, he was advised that all of the existing documents were fine. However, during this process he voluntarily decided to update the documents because they were outdated. The documents have been updated and fully comply.
- [60] Based on this, he questions why the conditions are being imposed on the business licence if nothing has to be changed in the Operational Plan and Operational Manual.

[61] The result of imposing these conditions on the licence is that it will be more difficult to obtain insurance. It was his opinion that the conditions will do nothing to ensure public safety.

Decision

[62] The appeal is **ALLOWED IN PART** and the decision to impose conditions upon Business Licence 089490433-001 is confirmed subject to the following changes: Conditions 1, 2, 3, 4, and 5 are **deleted** and **replaced** with the **following condition**:

1. No employee charged with aggravated assault in relation to the incident on the premises February 17, 2024, may be employed in a management capacity or in any other capacity where they would be in care and control of the premises while the charges remain unresolved.
 - a. They may be employed in a non-management capacity provided that they are only allowed to work on the premises under the direct supervision of at least one manager who is in care and control, any time during operating hours or while customers are present.
 - b. In the event that they are acquitted of the aggravated assault charges, or the charges are reduced, stayed or dismissed, or new material information comes to light, the Licensee may inform the City Manager and request a re-examination of this condition.
 - c. This condition will remain in effect until May 22, 2027, or until the removal or modification of the condition following a re-examination by the City Manager in accordance with clause b.

Reasons for Decision

[63] This is an appeal of a Licence Review decision made by the Program Manager of Business Licencing (the “Decision Maker”) imposing conditions on Business Licence 089490433-001 issued under three categories: Alcohol Sales (Consumption On-Premises / Minors Prohibited), Restaurant or Food Service; and Tobacco and Vaping Product Sales (“the Licence”).

Legal Framework:

[64] Business Licence Reviews are regulated by the *Business Licence Bylaw, Bylaw 20002*. Section 23(m) 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.

[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] 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;

[67] 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)

[68] Additional sections of the *Bylaw* apply specifically to the Business Category Alcohol Sales (Consumption On-Premises / Minors Prohibited). These sections create deemed licence conditions, additional application requirements and consequences for failure to meet them:

- 10 If the Business Category requires police information checks, the Business must notify the City Manager as soon as reasonably possible of an update in:
 - (a) information including charges, convictions, and court orders that would normally be disclosed in a police information check; or
 - (b) managers, directors, partners, officers, agents, or other persons in care and control of the Business.

37 It is a deemed condition of the Alcohol Sales (Consumption on Premises / Minors Prohibited) Business Category that the licensee must:

- (a) comply with the approved Operational Plan;
- (b) keep a copy of the approved Operational Plan on the Premises and make it available to all Employees and managers;
- (c) refuse entry to, or remove from the Premises any person:
 - (i) who appears to be intoxicated or under the influence of drugs,

- (ii) whose behaviour becomes combative, riotous or disorderly,
- (iii) who is found to be, or known to be involved in criminal activities such as drug possession or trafficking,
- (iv) who has been removed from the Premises repeatedly, or
- (v) who has been identified for the licensee by the Edmonton Police Service as a banned patron under the Alberta Gaming, Liquor, and Cannabis Act, RSA 2000, c. G-1;

(d) report criminal activities to the Edmonton Police Service;

(e) keep an incident log book on the Premises and document the date, time and nature of any incidents, including, but not limited to:

- (i) patron removals,
- (ii) fights or disturbances,
- (iii) entry refusals,
- (iv) noise complaints,
- (v) weapons, or
- (vi) incidents requiring police attendance; and

(f) require that Employees and security personnel wear a uniform or some other distinctive form of visible identification at all times while working.

[69] Part B of Schedule B of the *Bylaw* lists additional application requirements specific to Alcohol Sales (Consumption on Premises / Minors Prohibited) Business Category. Two are relevant for this appeal:

1. Operational Plan (noise mitigation plan, patron management plan, security plan, and medical / safety plan), and
2. Police information check (PIC).

[70] 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.

[71] 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 190003*.

Background: Chronology and Submissions

- [72] The Appellant has been operating for over 14 years and has never previously been subject to a Licence Review or additional Business Licence conditions.
- [73] A serious incident occurred on the premises on February 17, 2024 (the Incident). The Incident was not disclosed by the Appellant as required under section 10(a) of the *Bylaw*.
- [74] The parties agree the Appellant's record is otherwise unblemished and the business has been well run with no other documented infractions or concerns. The Appellant has taken its responsibilities with respect to patron safety seriously. The Appellant has worked with stakeholders to develop the Best Bar None program, Alberta Gaming, Liquor and Cannabis (AGLC) best practices, and bystander intervention training. Security Staff have ProTect certification and the Appellant has taken proactive steps to have Edmonton Police Service (EPS) and AGLC come to educate his employees.
- [75] The Appellant's licence came up for renewal in January 2025. The standard renewal process included consultation with the EPS, a Consulting Agency for the Alcohol Sales (Consumption on Premises / Minors Prohibited) Business Category,
- [76] The consultation revealed that during the Incident in February 2024, three employees were alleged to have assaulted a patron after denying the patron re-entry to the premises. The patron was seriously injured. EPS and emergency services were involved. The three employees were charged with Aggravated Assault (including R.W., a manager in a position of care and control of the business at that time). At the time of the licence renewal process, the PIC form for R.W. disclosed the existence of the unresolved criminal charge for Aggravated Assault.
- [77] Based on the violation of section 10(a) and the seriousness of the charge, the Decision maker initiated a Licence Review. EPS was involved as a Consulting Agency. EPS provided a summary of the event and indicated they had obtained closed-circuit television video, witness statements and witness video that corroborated that summary. According to EPS, the patron's injuries were potentially life altering. Based on the evidence at hand, EPS stated it was unclear during the physical altercation where the injuries were sustained; however, all three staff members including R.W. used force on the patron, therefore, the three were jointly charged.
- [78] After acknowledging that R.W. did not show any other documented criminal involvement or a history pertaining to violent behaviour or work-related offences, EPS stated that they could not confirm the PIC, or support R.W. as an operating manager or being left in the care and control of The Pint or any other licensed premise until the matter is resolved before the courts. EPS recommended the Licence be made conditional on R.W. providing a declaration of non-involvement with the business.

[79] After receiving this information, the Decision Maker issued a Notice of Licence Review dated March 5, 2025, including three potential Licence conditions restricting the employment responsibilities for R.W. based on the information at hand:

1. (a) The Licensee must not allow R.W. to be employed as a manager of the business, or in any other capacity where R.W. would be on the premises at any time during operating hours or while customers are present; or
- (b) The Licensee must not allow R.W. to be employed in a management capacity or in any other capacity where R.W. would be in care and control of the premises while his charges remain unresolved. R.W. may be employed in a non-management capacity provided that he is only allowed to work on the premises under the direct supervision of at least one manager any time during operating hours or while customers are present.
2. While R.W. is employed at the business, the Licensee must, within 30 days of the event, inform the Business Licensing Program Manager of any new criminal charges against R.W., or the outcome of any charges related to R.W.'s alleged aggravated assault once they are resolved.
3. The Licensee must comply with all measures and procedures identified in the approved operational plan.

[80] Per Section 25 of the *Bylaw*, the Decision Maker gave the Appellant an opportunity to respond to the disclosed documentation and provide information to inform the final decision.

[81] On March 19, 2025, the Appellant responded in writing asking the Decision Maker to defer any decisions on imposing conditions until a judicial verdict is reached with respect to the charges. The Appellant argued that the lengthy unblemished history of both The Pint and R.W., demonstrated that the incident was an isolated event and that there is no risk of a similar incident, and that R.W. does not pose any risk to the general public.

[82] The Appellant asked the Decision Maker to consider R.W.:

- a. Has been employed in a management capacity for 14.5 years and in care and control of the Pint premises for over 1,620,000 patrons.
- b. Has no history of any similar incidents and does not pose a risk to the public.
- c. Pleaded not guilty to the criminal charges and waits for an opportunity to address these charges in open court.
- d. Understands his role as Manager in the care and control and safety of the patrons and does not pose any risk to the patrons of the Pint or the general public.

[83] The Appellant also asked the Decision Maker to consider that the business:

- a. Has been licensed for 15 Years with no conditions or Licence Reviews while serving 1,620,000 customers since opening.

- b. Has an extensive Operations Manual with policies and procedures that Staff and Management are expected to adhere to and a good working history with all compliance teams.
- c. Understands the vital role management plays in these circumstances which they emphasized to R.W. and are satisfied that he understands.
- d. Reviewed the incident in detail with R.W. and feel he understands and has acknowledged how he could have handled this isolated incident differently; and,
- e. Will make the necessary staff adjustments on a voluntary basis if R.W. is found guilty,

[84] On April 22, 2025, the Appellant answered a request from the Decision Maker for additional, more general information concerning:

- a. Response procedures if a patron is injured during the course of removal or refusal and information about the required qualifications of security or other personnel to conduct patron refusals and removals; and,
- b. Performance management policies including disciplinary measures and improvements for employees or managers who have used excessive or unreasonable force.

[85] The Appellant provided additional information about the required qualifications of security or other personnel to conduct patron refusals and removals and about performance management policies including disciplinary measures and improvements for employees or managers who have used excessive or unreasonable force. Their long standing policy to address employee misconduct in any criminal activity is immediate termination with cause when the circumstances are clear.

[86] On May 22, 2025 the Decision Maker issued the Decision imposing five conditions upon the Licence on the grounds of public interest and violation of the *Bylaw*: some related to R.W.'s job responsibilities, and others concerning the Appellant's overall workplace policies and repercussions applicable in the event a patron is injured during the course of removal or refusal as well as the communication and documentation of acknowledgment of those policies.

[87] On June 6, 2025, the Appellant appealed the decision to this Committee. The Appellant did not provide written submissions prior to hearing. At the Hearing, the Appellant made oral submissions and introduced six documents to show the steps they had made to satisfy the Decision Maker's concerns.

[88] The Appellant objected to all five conditions on the basis they were unnecessary, disproportionate and damaging to the business and to the employees. More particularly:

- a. Conditions 1 and 2 addressed matters that they were already legally obliged to do and had complied with by updating their procedures and manuals.
- b. Condition 3 was unnecessary as
 - i. The Incident had been addressed by the Appellant and R.W. for the interim.

- ii. One employee was terminated as the information respecting his actions were clear.
- iii. The available information regarding R.W. was unclear so the condition was premature and contrary to presumption of innocence and would be handled voluntarily by the Appellant once the judicial process produced a verdict.
- iv. In the circumstances the incident was a single aberrant event and R.W.'s record shows he is an asset, not a risk to public safety.
- v. The condition violated R.W.'s privacy.

[89] Prior to the hearing, the Decision Maker submitted the materials before him at the time of the decision and a written submission. He made additional oral submissions at the hearing arguing that the five conditions together put reasonable and manageable expectations on the Appellant to establish, maintain, and hold staff and managers accountable for following procedures regarding use of force when removing patrons or refusing entry to patrons, and responding appropriately in the event that a patron is injured during the course of removal or refusal.

- a. Conditions 1 and 2 were necessary because the Incident involved three employees and the submitted plans were insufficient. The available evidence showed that all three employees breached the No Striking Policy and discussions with the Appellant revealed the existing policies were lacking.
- b. Conditions 1 and 2 were imposed to ensure the Appellant's internal policies explicitly addressed situations where removing patrons or denying them entry resulted in injury to ensure all employees were aware of their responsibilities and the employment repercussions of failure to adhere and to create a demonstrable record that these the plans would be communicated to all employees in a timely manner which is not a deemed or implied condition imposed by the *Bylaw*.
- c. Condition 3 was needed as the Appellant was unclear about the specific repercussions for the employee's actions. The condition enabled the Appellant to continue their employment relationship with R.W. while recognizing the added responsibilities of a manager in care and control.
- d. Given that R.W.'s Aggravated Assault charge resulted from an incident that occurred during the course of his employment duties, he ought to be prohibited from being employed in a management capacity in care and control while his charge is unresolved. Condition 3 would protect the public and the employees who might report to him.
- e. Conditions 3 and 4 allow R.W.'s management duties to be immediately reinstated without requiring a formal re-examination of conditions.
- f. Condition 5 would improve accountability for disclosure and compliance by substantially increasing the applicable fine.

Analysis:

[90] The Committee finds that the Licence Review was warranted on the grounds that the *Bylaw* was violated (per section 24(c)) and the February 17, 2024 incident raised reasonable public interest reasons to warrant a review (per sections 24(e)(iv) and (v)):

- a. The parties agreed that the Appellant violated the *Bylaw* as it failed to meet its obligation under section 10(a) to report the information concerning the Incident and in particular that charges had been laid against its employees.
- b. The submitted materials and submissions of both parties concerning the Incident raise a public interest reason sufficient to commence a Licence Review:
 - i. The materials show that the Appellant's No Striking Policy had been violated. In the course of their employment with the Appellant, three employees acted in a manner resulting in serious bodily injury to a patron who required emergency medical services and hospitalization.
 - ii. EPS laid criminal charges of Aggravated Assault against all three employees and at least one employee was in a position of care and control at the time of the incident.
 - iii. EPS is a consulting agency for the Business Category and upon review of the information concerning the Incident, they recommended that R.W. in particular be precluded from working in the Business Category.

[91] The Committee considered whether there was a basis to impose each of conditions in turn in light of: the submissions; the Committee's broad discretionary authority to impose licence conditions under the *Bylaw*; and, the focus throughout the *Bylaw* and the Business Category on patron and public safety as well as the public interest.

[92] Condition 1:

1. Within 30 days of this decision taking effect the Licensee must establish formal, written post-incident response procedures for incidents where patrons are injured while being removed or refused entry by security personnel, with emphasis on arranging timely First Aid or medical treatment to the injured party, and:
 - a. Provide a copy of the response procedures to all current security personnel and managers;
 - b. Require all current security personnel and managers to acknowledge by written signature their understanding of the response procedures;
 - c. Provide a copy of the response procedures to all future security personnel and managers and require them to acknowledge by written signature their understanding of the response procedures within seven (7) days of commencing employment; and
 - d. Maintain a copy of each individual's written acknowledgment of the response procedures for the duration of their employment, and provide it within 48 hours if requested by a delegate of the City Manager or a Bylaw Enforcement Officer.

[93] Condition 1 requires the Appellant to do four things: establish more formal, written post-incident response procedures on dealing with patrons injured during removals and

refusals; ensure employees are aware and agree with the procedures; document employee acknowledgement; and, produce documentation if asked by the Decision Maker.

[94] The Committee removes the requirement to establish more formal, written post-incident response procedures on dealing with patrons injured during removals and refusals for the following reasons:

- a. In Part D question 2 of the Operational Plan, the Appellants have described their procedures for refusing entry or to remove patrons when required, including who will be responsible. The Decision Maker approved the Operational Plan as submitted by the Appellant. At the hearing, he confirmed that Operational Plans need not be comprehensive.
- b. The Decision Maker confirmed he was satisfied that the submitted Operational Plan was sufficient and his concerns could be addressed in the Appellant's internal policy documents.
- c. At the hearing, the Decision Maker acknowledged he believed that these conditions have been partially met based on the information provided by the Appellant and that all documents could be made compliant by simple edits to the Appellant's policy documents.
- d. Asked to identify the edits, he suggested that compliance could be achieved by changing the heading In the Event of a Violent Assault to clarify that it applies to situations where patrons are injured while being removed or refused entry by security personnel if the Appellant intended that the same policy apply.
- e. The Appellant confirmed that the provisions under Security Staff Guidelines including In the Event of a Violent Assault are meant to apply to removal and refusals where injury occurs.
- f. The Appellant did not make an explicit change to the headings in the Manual; however, they have updated their Manual and forms to address this situation. Several portions of the Operation Manual under the Heading Security Staff Guidelines also apply and provide pertinent instructions:
 - If you feel like someone needs to be escorted out, please consult with the head of security over radio or in person first.
 - Verbal persuasion is the preferred method of removing patrons and correcting situations.
 - The Pint has a no striking policy this means: no punching, no choke holds, no head butts, no kicking, no strikes of any kind.
 - If we have to remove a patron after an altercation, they must be escorted out using basic holds.
- g. Security staff are encouraged to have first aid training.
- h. Provisions under the heading Police Involvement provide additional guidance on when to call police, and on documenting serious events.
- i. The Appellant also provided evidence to show they have also now replaced the Liquor Liability Form with a new Liquor Liability & Workplace Conduct Acknowledgement - The Pint Group. It states in part:

11. I acknowledge The Pint Groups strict No Striking Policy:

- I understand violations may lead to termination.
- I will avoid physical contact with patrons.
- Minimal holds are allowed only when essential.

[95] The Committee acknowledges that the revised Manual could be edited and reorganized to make it clearer that the stated procedures apply when a patron is injured during removal or refusal. Indeed, this change could well benefit both the employees and the Appellant.

[96] However, upon review, the Committee finds the existing revised documentation of response procedures are sufficient to address the concerns identified by the Decision Maker. The Committee concludes that it is not warranted to add explicit conditions to the Licence requiring the Appellant to establish formal, written post-incident response procedures for incidents where patrons are injured while being removed or refused entry by security personnel.

[97] Next, the Committee turned to the three remaining requirements in Condition 1 (a), (b) and (c) to first circulate, then obtain, maintain and produce acknowledgment of the policy concerning responsibility when refusing and removing patrons.

[98] The Committee considered the Decision Maker's position that as three employees (including a manager in care and control responsible to ensure the Operational Plan and all applicable City bylaws are followed) failed to follow the No Striking policy, conditions requiring documentation of employee acknowledgement of the response procedures and No Striking policy and production of that documentation on request was appropriate.

[99] The Committee disagrees for the following reasons:

- a. The Appellant stated that the new Liquor Liability and Workplace Conduct Acknowledgement - The Pint Group Form (quoted above) is to be signed by all current and future employees to ensure they are aware of the No Striking Policy and their new Zero Tolerance Harassment Policy. The new form was submitted at the hearing. The uncontested evidence before the Committee was that the forms had already been signed by 90% of the employees.
- b. The Committee accepts the Appellant's statement that the process to have all employees sign the new documents is well underway and notes the Appellant supported this by providing copies of the Liquor Liability & Workplace Conduct Acknowledgement signed by various employees including R.W.
- c. Over the years, the Appellant has sought additional guidance from EPS and other agencies and voluntarily participated in developing programs for employees to follow to make the business safer for employees, patrons and the public.
- d. Apart from failing to report the Incident prior to the licence renewal, there have been no issues providing items mandated by the *Bylaw* in over 14 years of operations.
- e. After the Incident, the Appellant and its employees followed proper logging procedures required under the *Bylaw* and the employees cooperated with the

police and followed Security Staff Guidelines for instances where there is police involvement.

- f. The Appellant was forthcoming with required materials including log entries and video concerning the Incident.
- g. The Committee notes that dissemination and acknowledgment of the guidelines is in the Appellant's business interest and there is no indication they do not take this responsibility seriously.

[100] In these circumstances, the Committee finds that express conditions in 1(a), (b) and (c) are unnecessary and unwarranted, and have already been largely complied with.

[101] **Condition 2:**

2. Within 30 days of this decision taking effect the Licensee must:
 - a. Provide a copy of The Pint's 'No Striking' policy to all current security personnel and managers;
 - b. Require all current security personnel and managers to acknowledge by written signature their understanding of the 'No Striking' policy;
 - c. Provide a copy of the 'No Striking' policy to all future security personnel and managers and require them to acknowledge by written signature their understanding of the 'No Striking' policy within seven (7) days of commencing employment; and
 - d. Maintain a copy of each individual's written acknowledgment of the 'No Striking' policy for the duration of their employment, and provide it within 48 hours if requested by a delegate of the City Manager or a Bylaw Enforcement Officer.

[102] Condition 2 creates dissemination, acknowledgement, documentation and production requirements similar to those in Condition 1 for the No Striking Policy. The Committee finds that Condition 2 is not required for the reasons listed above with respect to parts (a), (b) and (c) of Condition 1 and notes the following additional points which support this conclusion:

- a. According to the submitted evidence, this change has been made and dissemination, acknowledgement and documentation of the No Striking Policy are already part of the Appellant's practice.
- b. The No Striking Policy is stated in the Manual which is acknowledged and signed by all employees.
- c. It is referenced in Liquor Liability & Workplace Conduct Acknowledgement - The Pint Group Form signed by all employees.
- d. In addition, staff are trained to identify actions that are not allowed by the No Striking Policy.
- e. As noted above, the Decision Maker has not documented any issues with production from the Appellant over the past 14 years.

[103]Condition 3:

3. The Licensee must not allow R.W. to be employed in a management capacity or in any other capacity where R.W. would be in care and control of the premises while his aggravated assault charges remain unresolved.
 - a. R.W. may be employed in a non-management capacity provided that he is only allowed to work on the premises under the direct supervision of at least one manager any time during operating hours or while customers are present.
 - b. In the event that R.W. is acquitted of the aggravated assault charges against him, or the charges are stayed or dismissed, the Licensee may reinstate R.W.'s management duties, subject to conditions 1 and 2 above.

[104]Condition 3 involves an assessment of risk and the public interest in light of R.W.'s actions at a point in time when none of the charges against the three employees have been proven in court. This appeal hearing is not a criminal proceeding. The legal standards, considerations and repercussions are different. With this in mind, the Committee carefully reviewed the submissions of the parties concerning the information known about the Incident which prompted criminal charges and their respective responses.

[105]The Committee noted that several aspects of the Incident were not disputed. All parties agree the Incident was a very serious occurrence and also a single isolated occurrence in an otherwise uneventful 14 year history from a business licence perspective. The Incident resulted in criminal charges of aggravated assault.

[106]The Appellant argued Condition 3 was disproportionate, risk laden and excessive because of the presumption of innocence and due process. Based on a review of their own security video footage and discussions with its employees, the Appellant asked the Committee to remove Condition 3 and leave the terms of R.W.'s employment to their discretion. He explained:

- a. Three employees were involved in an altercation in the course of their employment with a patron attempting to gain entry to the premises.
- b. All three appear on the one security video he has seen. He has not viewed video from any other witness.
- c. The Appellant's policy is to dismiss employees when the circumstances are clear. One employee struck the patron in the face with a cast in clear violation of the No Striking Policy. He has been dismissed.
- d. The other two have remained in the Appellant's employ as their actions were inconclusive and therefore their actions did not warrant termination.
- e. R.W. was called to the scene as manager in control. He can be seen engaging in a bear hug around the patron's chest area. With the movement of all parties, this basic hold slid up to the patron's neck area which is a hold that is contrary to the No Striking Policy.
- f. They are aware of the hold transition, but satisfied it was not intentional and that it occurred in fast developing circumstances.

- g. The Appellant reviewed the incident in detail with R.W. and discussed actions that he could have taken. The Appellant believes this is not his character and that his actions were unintentional and therefore the matter remains unclear.
- h. The Appellant accepted R.W.'s offer to voluntarily step back from his former managerial role in care and control of the premises.
- i. The Appellant believes R.W. is an asset that improves public safety and if R.W. asked, they would reinstate him to his former full managerial role.
- j. However, if additional information is revealed or if R.W. is convicted, the Appellant will voluntarily terminate R.W.'s employment.

[107] The Committee noted that the Appellant's comments respecting R.W.'s current employment are borne out by their March 25, 2025 Operational Plan. R.W. remains listed as one of six managers who will be in care and control of the business and responsible for ensuring that the Operational Plan and applicable Bylaws are followed.

[108] EPS recommended that the business licence be subject to the condition that R.W. provide a declaration of non-involvement with the businesses. They provided a more detailed description of R.W.'s involvement. According to their review of available information which consisted of closed-circuit television video, witness statements, and additional witness video, the following chain of events were corroborated:

- a. A verbal argument began between the parties over the refusal. A physical altercation ensued between the patron and several bouncers including R.W.
- b. The patron was placed in a rear naked choke hold by R.W. and thrown to their stomach. Several staff including R.W. pinned the patron to the ground for a period of time.
- c. The patron's head rested on the stairs while their body rested on the landing in a distorted fashion.
- d. While R.W. was releasing the patron from the choke hold, a fellow bouncer punched the patron two times in the face with an arm that appeared to have a hard plaster.
- e. R.W. was observed still on top of the patron and seen holding the patron's hands and arms and pushing on their head and face while their head was on the stairs.
- f. R.W. sat the patron up with support of another bouncer.
- g. The patron was held down for 3 minutes in total during the assault by R.W. and bouncers. The patron's blood could be seen running down the stairs.
- h. Police and paramedics assisted the patron and transported them to the hospital, where it was determined that they had a fracture to their face near the left eye, a swollen left eye that they could not see out of for five days, a red dot in their left eye that has an unknown time of healing, if it heals, a right bruised eye, two small cuts to the back of their head, bruising to their arms, and their back, fluid in their knee requiring crutches to walk and an x-ray.

[109] EPS concluded that based on evidence, it was unclear during the physical altercation where the injuries were sustained, but all three staff members including R.W. used force on the patron. Therefore, they were jointly charged in relation to their involvement.

[110] Despite no other documented criminal involvement or history of violent behaviour or work related offences, EPS would not confirm the PIC or support R.W. as an operating manager, or be left in the care and control of the business or any other licensed premise until this matter is dealt with before the courts.

[111] Based on EPS and Appellant's materials, the Decision Maker imposed Condition 3 which was a compromise between leaving the matter of R.W.'s completely up to the Appellant and banning R.W. from all participation in the Business as a licence condition.

[112] Condition 3 allows the Appellant to continue their employment relationship with R.W. However, given that R.W.'s Aggravated Assault charge resulted from an incident that occurred during the course of his employment duties, it prohibits him from being employed in a management capacity while his charge is unresolved.

[113] After reviewing these submissions, the Committee agreed with the Decision Maker that the managerial responsibilities for care and control should not be left entirely to the discretion of the Appellant and R.W. It is not in the public interest that the Appellant be the sole arbiter of consequences or risk assessment. Based on the submitted materials, the Committee imposes a revised Condition restricting R.W.'s employment responsibilities for the following reasons:

- a. The Committee has wide discretion with respect to imposing conditions. There is no explicit restriction of the types of conditions that may be imposed.
- b. Throughout the *Bylaw* there is emphasis on public safety and the public interest.
- c. Section 23(f) of the *Bylaw* authorizes the Decision Maker to waive any application requirements for a licence renewal, not including a police information check, if the City Manager is satisfied there are not public interest concerns.
- d. This exception supports the proposition that items in police information checks (including criminal charges) are significant matters and are a public interest concern that must be considered.
- e. Under the *Bylaw*, the Appellant must remove or refuse entry to patrons who are disorderly or intoxicated, but it is the Appellant's responsibility to take reasonable measures to avoid causing harm in the process of removal or refusal.
- f. Three employees were involved in the altercation where the patron was seriously harmed.
- g. The Incident was an isolated event in R.W.'s otherwise unblemished career; however, the submitted materials demonstrate that he was integrally involved and the patron was severely injured.
- h. According to the submissions, his actions did culminate in a choke hold which is expressly prohibited by the No Striking Policy. According to the Appellant, employees receive training about which holds are not allowed.
- i. R.W. was the manager in care and control at the time of the incident. He was the person other employees are directed in the Manual and Operational Plan to seek assistance and direction from and in this role he has a higher responsibility with respect to patron management and public safety.

- j. The public interest favours removing employees who fail to follow the policies that they have been made aware of and have agreed to follow and acted in a manner which results in serious injuries to patrons, particularly when the employee in question is a manager in a leadership position of care and control.
- k. While the Appellant reviewed the incident with the remaining employees, no evidence was presented concerning possible disciplinary action, training, additional supervision, a change in duties, or any other preventative measures or corrective protective measures being applied for either employee to ensure they follow the policies going forward.
- l. To the contrary, the Appellant has indicated he would reinstate to full managerial care and control duties upon R.W.'s request. Despite stepping down voluntarily, R.W. remains a listed manager in care and control in the documents recently filed with the Decision Maker.
- m. The Appellant indicated he must consider employee standards for demotion or termination. By contrast, the Committee is guided by broader considerations of public interest and safety set out in the *Bylaw*.

[114] As the Decision Maker was satisfied R.W. presents a low risk danger if he were employed in a non managerial position and based on his employment record and the submissions of his employer, the Committee has also limited the prohibition on involvement to management responsibilities and to the care and control of the premises.

[115] The Committee has adjusted the wording of the condition to address privacy concerns by removing R.W.'s name.

[116] The Condition includes a provision the Appellant may apply to have the condition re-examined and potentially removed in the event of acquittal, reduction or stay of the aggravated assault charges or a material change in circumstances. In this way, the public interest and safety basis for the conditions can be revisited in light of the new development.

[117] Condition 3 is deleted and replaced with Condition 1 as follows:

1. No employee charged with aggravated assault in relation to the incident on the premises February 17, 2024, may be employed in a management capacity or in any other capacity where they would be in care and control of the premises while the charges remain unresolved.
 - a. They may be employed in a non-management capacity provided that they are only allowed to work on the premises under the direct supervision of at least one manager who is in care and control, any time during operating hours or while customers are present.
 - b. In the event that they are acquitted of the aggravated assault charges, or the charges are reduced, stayed or dismissed, or new material information comes to light, the Licensee may inform the City Manager and request a re-examination of this condition.

- c. This condition will remain in effect until May 22, 2027, or until the removal or modification of the condition following a re-examination by the City Manager in accordance with clause b.

[118] **Condition 4:**

4. While R.W. is employed at the business, the Licensee must, within 30 days of the event, inform the Business Licensing Program Manager of any new criminal charges against R.W. and the outcome of any charges related to R.W.'s alleged aggravated assault once they are resolved.

[119] Condition 4 is deleted for the following reasons:

- a. All licensees in the Appellant's Business Category are required by section 10(a) of the *Bylaw* to inform the City Manager as soon as reasonably possible of an update in information including charges, convictions and court orders that would normally be disclosed in a police information check.
- b. It is true, the Appellant failed to comply with this requirement immediately after the 2024 incident, but there is no other record or indication of failure to report any required information to the City Manager over 14 years of operations. The Appellant cooperated with EPS and compliant with incident reporting requirements for witness statements, log entries and security video.
- c. In the Committee's view, Condition 4 is redundant and unnecessary given the Appellants overall record and given that the new Condition imposed by the Committee to replace Condition 3 addresses the public interest concerns with respect to the Incident involving all three employees, including R.W. in particular.

[120] **Condition 5:**

5. The Licensee must comply with all measures and procedures identified in the approved operational plan.

[121] Condition 5 is deleted for the following reasons.

- a. It is a deemed condition for all businesses in the Alcohol Sales (Consumption on Premises / Minors Prohibited) Business Category that the licensee must comply with the approved Operational Plan per section 37(a) of the *Bylaw*.
- b. The Decision Maker indicated that this condition should be added as an explicit condition of the business licence to affirm its importance by increasing the fine for non compliance.
- c. The fine for violation of the Operational Plan is \$250 per Schedule C Part B - Offences and Penalties by Business Category.
- d. Section 29(1) states a licensee must not contravene any condition added to the licence through a Licence review. The fine for a violation of section 29(1) is \$2,000

per Schedule C Part A - General Offences and Penalties.

[122] After reviewing the submitted information about the Appellant's record, the Committee is not convinced that the imposition of an express condition in place of an implied condition to increase the fine is warranted.

[123] The Committee is not convinced of a safety or public interest served by this condition. The City did not provide any rationale explaining why a higher fine is necessary to ensure the Appellant will take its reporting obligations and its Operational Plan more seriously in the future.

[124] For all these reasons, the Appeal is allowed in part, the five express conditions are deleted and replaced with the one condition as written above.



Kathy Cherniawsky, Chair
Community Standards and Licence Appeal Committee