



REVISED

**SPECIAL COUNCIL MEETING – APPEAL HEARING
COUNCIL CHAMBER, BURNABY CITY HALL**

4949 Canada Way, Burnaby, B. C.

**OPEN MEETING AT 6:00 PM
Wednesday, 2019 October 16**

A G E N D A

1.	<u>CALL TO ORDER</u>	<u>PAGE</u>
2.	<u>REQUEST</u>	
	A) Pure Hookah Lounge Re: Unfair Contravention of Business Hours of Pure Hookah	1
3.	<u>REPORT</u>	
	A) PURE HOOKAH LOUNGE INC. AT 3863 HASTINGS STREET	2
	Purpose: To provide Council with information on the reasons that led to the cancellation of the Burnaby Business Licence for Pure Hookah Lounge Inc.	
4.	<u>APPELLANT SUBMISSION</u>	
	A) Dean P. Davison and Dale R. North Counsel for Pure Hookah Lounge Inc. Re: Reconsideration Hearing Submission	73
5.	<u>ADJOURNMENT</u>	

Zeinabova, Blanka

Subject: Pure Hookah Lounge - BYL19-00011 , BUS17-01333

From: Jay J [mailto: [REDACTED]]
Sent: Saturday, June 22, 2019 11:07 PM
To: Zeinabova, Blanka; Layng, Dan; OConnell, Kate; Wong, Elaine; Clerks; [REDACTED]
Cc: [REDACTED]
Subject: Pure Hookah Lounge - BYL19-00011 , BUS17-01333

Attention :
Blanka Zeinabova
City Office
City Clerk
[4949 Canada Way](#)
[Burnaby , BC](#)
[V5G 1M2](#)

Good Day Blanka ,

Thank you for your email response. In reply to your letter dated 2019, June 10 (please see attached) we hereby would like to select a date that was given to us for making our presentation .

Subject - Unfair contravention on Bussiness Hours of Pure Hookah imposed by the City of Burnaby .

Date of hearing - 2019 , July 29
Time - 6Pm
Time allotted - 10 minutes
Designated Speaker - Jason Jose
Address , [REDACTED]

We would also like to request if the date could be advanced to a sooner date than July 29 if there is a slot available any sooner . Each passing day is causing unbearable financial consequences to our business so would urge you to consider a sooner date if available .

Also we need a deadline for our legal counsel (Dale North on cc) to submit our case and materials to the Mayor and the councillors in advance of our confirmed council meeting .

Thanks in Advance . Look forward in hearing back from you .

Highest Regards ,

Jason Jose



Item
Special Meeting 2019 October 16

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2019 Sept 17

FROM: CHIEF LICENCE INSPECTOR

SUBJECT: PURE HOOKAH LOUNGE INC. AT 3863 HASTINGS STREET

PURPOSE: To provide Council with information on the reasons that led to the cancellation of the Burnaby Business Licence for Pure Hookah Lounge Inc.

RECOMMENDATION:

1. **THAT** Council uphold the Chief Licence Inspector's decision to cancel the business licence for Pure Hookah Lounge Inc. to operate at 3863 Hastings Street.

REPORT**1.0 BACKGROUND**

Pure Hookah Lounge Inc. ("Pure Hookah") applied for a Burnaby business licence on 2017 May 16, to operate as a restaurant at 3863 Hastings Street. The original business licence was issued on 2017 August 29 and was renewed in 2018 and 2019.

The property located at 3863 Hasting Street is an older three story building on the north side of Hasting Street. In addition to the business premises occupied by Pure Hookah, the property also has one other street level business and eight apartment units on the second and third floors. To the south east and west of the property are residential apartment towers. The property is within two blocks of the boundary between Burnaby and Vancouver.

Since 2018 April, the City and the RCMP have approximately received a combined 119 complaints and/or calls for service in response to noise during the late evening and early morning hours associated with Pure Hookah. The Engineering Department and the Licence Office received approximately sixty six (66) complaints from twenty one (21) different complainants over this time period.

Section 3.2 of the *Burnaby Business Licence Bylaw 2017* provides the Chief Licence Inspector the authority to impose terms and conditions in respect to a business licence granted under the bylaw. Additionally, Section 7.1 of the *Burnaby Business Licence*

To: City Manager
 From: Director Public Safety and Community Services
 Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
 2019 September 17.....Page 2

Bylaw 2017 and Section 60 of the *Community Charter SBC, 2003 c. 26* provide that a business licence may be cancelled or suspended for reasonable cause.

In 2019 April, the ongoing noise complaints related to Pure Hookah led the Chief Licence Inspector to impose conditions on the business licence limiting the business' permitted daily hours of operation from 7:00 am to 11:00 pm (**Attachment #1 – 2019 April 03 letter to Pure Hookah**). After receiving additional public complaints and notification from the RCMP that the business had failed to abide by the conditions placed on their business licence and cease operating by 11:00 pm, on 2019 July 03 the Chief Licence Inspector provided written notification to the business that the Burnaby Business Licence was forthwith cancelled (**Attachment #2 – 2019 July 03 letter to Pure Hookah**).

Pursuant to section 8.1 of the *Burnaby Business Licence Bylaw 2017*, Pure Hookah has 30 days from the date of the Chief Licence Inspector's decision to seek Council reconsideration of the decision. Pure Hookah has done so within the 30-day deadline.

The purpose of this report is to provide Council with information on the reasons that led to Chief Licence Inspector's decision to cancel Pure Hookah's Business Licence.

2.0 POLICY SECTION

The recommended action is aligned with the City of Burnaby's Corporate Strategic Plan by supporting the following goals and sub-goals of the plan:

A Safe Community

- Crime prevention and reduction

A Healthy Community

- Healthy life
- Healthy environment

3.0 NOISE COMPLAINTS RECEIVED BY THE ENGINEERING DEPARTMENT, LICENCE OFFICE AND RCMP RELATED TO PURE HOOKAH

On 2019 January 03, Burnaby Licence Office staff received information from the RCMP that they had been called to 3863 Hastings Street on multiple occasions in recent weeks due to citizen complaints about late evening and early morning noise. A complaint file was created by the Licence Office on 2019 January 07. After the file was created, additional citizen complaints continued to be received by the Licence Office, the RCMP, and the Engineering Department. Chronologies of these complaints and/or calls for service are appended at **Attachment #3 Engineering Complaint Log; Attachment #4**

To: City Manager
 From: Director Public Safety and Community Services
 Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
 2019 September 17.....Page 3

RCMP Call History Report; and Attachment #5 Licence Office Complaint / Attendance Log.

Information gathered by Licence Office staff from social media websites revealed that Pure Hookah advertised operational hours until 4 am and the business was promoted as hosting special events on occasions such as Halloween and New Year's Eve. The postings also included references to DJ's playing music and alcohol service at the premises (**Attachment #6**).

Staff enquiries also revealed that a number of "Liquor Special Event Permit" had been issued for 3863 Hastings Street from the Liquor and Cannabis Regulation Branch (LCRB). According to LCRB enforcement staff, Special Event Permits (SEP) are available to event hosts who wish to provide temporary or infrequent liquor service at events such as family gatherings, private functions, community festivals and manufacturer tastings. Special Event Permits are not intended to be a replacement for permanent food-primary or liquor-primary liquor licences.

From 2018 December 09 to 2019 March 13, the RCMP reported that they had received over twenty (20) calls for service to Pure Hookah, and responded to nineteen (19) of those, regarding late evening and early morning business operations. The RCMP reported that loud music was often encountered by officers attending the business in response to the complaints. In some instances the RCMP were required to re-attend on the same evening after previous verbal requests to turn down the music were ignored. (**refer to Attachment #4**)

Engineering staff in the Environmental Services section reported that between the dates of 2018 April 14 and 2019 March 13, over thirty (30) noise complaints had been received relating to the late night operation of the business. (**refer to Attachment #3**) As a result of these complaints, three compliance letters dated 2018 April 20, 2018 May 14 and 2018 November 27 (**Attachments #7, #8, #9**) were sent to the property owner and/or the business operator advising of the neighbourhood concerns. In addition to the letters that were sent, Engineering staff placed telephone calls to the property owner and/or business owner on six occasions between 2018 May 14 and 2019 February 15 to discuss the neighbourhood concerns and complaints (**refer to Attachment #3**). Engineering staff also issued a Bylaw Violation Notice to both the property owner and the business operator for violating section 4(a) of the Noise or Sound Abatement Bylaw after attending the property at 1:36 am on 2018 May 19 (**Attachment #10**). The Bylaw Violation Notice issued to the property owner has since been paid, however, the Notice issued to Pure Hookah remains unpaid.

To: City Manager
 From: Director Public Safety and Community Services
 Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
 2019 September 17.....Page 4

4.0 MEETING HELD WITH PROPRIETORS OF PURE HOOKAH

As a result of the ongoing complaints and concerns related to the business, a meeting was held on 2019 March 14, with the company director, Mr. Manbir Singh, his father Mr. Pakar Singh and his brother Mr. Jaison Jose. City staff from the Fire, Engineering and Public Safety Departments (Licence Office), as well as RCMP and Liquor & Cannabis Regulation Branch staff also attended.

During this meeting the Chief Licence Inspector made the business aware of the concerns the City had relating to the business operation. The business proprietors were advised that the primary concern of the Licence Office was the noise generated by the late night business operation and the negative effect on the peaceful enjoyment of the surrounding properties. It was pointed out that the area in the vicinity of Pure Hookah's business premises includes residences, including the eight apartment units within the building. The operators were further advised that their business operation had resulted in an inordinate number of RCMP calls for services (a total of over twenty (20) from 2018 December 09 to 2019 March 13) compared to similar hookah type businesses located within the city. Of the seven other hookah businesses in Burnaby, the business with the second most calls for service over the same time period stood at four (4), the third most with three (3), and the remaining five (5) businesses with zero RCMP calls for service.

During the meeting Mr. Jose, acting as the spokesperson for Pure Hookah, was provide with an opportunity to describe their business operations. Mr. Jose described the business as having a clientele in the 19-25 age range that desired an alternative to "partying downtown". The Chief Licence Inspector commented that given the description of the operation and the information gathered from social media, it appeared that the business was operating more as a "Liquor Licence Establishment" as defined by the Burnaby Zoning Bylaw rather than as a "Restaurant" as it had been licenced.

The Chief Licence Inspector concluded the meeting by informing the proprietors that any decisions made by the City and affecting their business operations would be communicated to them shortly.

5.0 POST MEETING COMPLAINTS AND CITY ACTIONS

Subsequent to the meeting, Licence Office staff received further notice from the Engineering Department that nine more complaints had been received between 2019 March 14 and 2019 April 02 (**refer to Attachment #3**). The RCMP also reported an additional five calls in relation to noise had been received in the same time period (**refer to Attachment #4**). The RCMP calls for service from 2018 December 09 to 2019 April 02, now numbered twenty-seven (27). Both the Licence Office and the RCMP also received additional complaints on 2019 April 03, the day the letter restricting the hours of operation was issued.

To: City Manager
 From: Director Public Safety and Community Services
 Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
 2019 September 17.....Page 5

The Licence Office reviewed the time of day that the RCMP had received calls for service from the public related to noise at 3863 Hastings Street and noted the majority of the complaints were received after 11:00 pm. Based on information received from the RCMP at the time, the breakdown of the times the complaints were received is as follows:

Number of complaints received by the RCMP	Between the hours of:
2	2200-2259
8	2300-2359
3	0000-0059
2	0100-0159
3	0200-0259
3	0300-0359

On this basis, in an effort to mitigate the noise impact on the neighbouring and to reduce the RCMP calls for service, while also permitting the business to continue to operate, the Chief Licence Inspector opted to limit the hours of operation of the business from 7am to 11pm daily. Section 3.2 of the *Burnaby Business Licence Bylaw 2017* provides the Chief Licence Inspector the authority to impose terms and conditions in respect to a business licence granted under the Bylaw.

The Chief Licence Inspector believed that sufficient cause existed to warrant placing conditions on the business licence in respect to the permitted hours of operation. Correspondence detailing the limitation on the business hours, and a copy of the amended business licence, was mailed to the registered address for Pure Hookah Lounge Inc. on 2019 April 03 (refer to **Attachment #1**).

By letter dated 2019 May 30, Pure Hookah's legal counsel responded to the Chief Licence Inspector's decision of 2019 April 03 (refer to **Attachment #12**).

6.0 FURTHER COMPLAINTS AND FAILURE OF THE BUSINESS TO COMPLY WITH THE BUSINESS LICENCE CONDITION (PERMITTED HOURS OF OPERATION)

After the letter was sent to Pure Hookah on 2019 April 03, both the Licence Office and the Engineering Department continued to receive complaints relating to late night business activities and the associated noise. The Licence Office received four additional complaints between 2019 April 03 and 2019 July 02 (refer to **Attachment #5**).

To: City Manager
 From: Director Public Safety and Community Services
 Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
 2019 September 17.....Page 6

The Engineering Department received eleven additional complaints in the same time period (**refer to Attachment #3**).

The RCMP also report receiving six calls for service related to late night noise after the business was advised that the permitted hours of operation had been limited to 11:00 pm. As a result of three of these calls for service, the RCMP attended 3863 Hastings after 11:00 pm on, 2019 April 07, 2019 June 08, and on two occasion on 2019 June 29.

On each occasion the RCMP found that the establishment was open and customers were on site past the required 11:00 pm closing time in spite of the condition placed on the business licence (**refer to Attachment # 4**).

As a result of the RCMP attendance on 2019 April 07 a Bylaw Violation Notice (BVN) was issued to Pure Hookah Lounge Inc. for failure to comply with terms or conditions of the business licence (**Attachment #11**). The violation notice remains unpaid to date.

After issuing the BVN for the 2019 April 07 violation, the Licence Office received notification from the RCMP that the business had again failed to abide by the conditions and cease operations by 11:00 pm daily, on 2019 June 08 and again on 2019 June 29. As a result of the ongoing bylaw violations the Chief Licence Inspector informed Pure Hookah Lounge Inc. by letter dated 2019 July 03, that the business licence to operate at 3863 Hastings Street was forthwith cancelled pursuant to section 7.1 of the *Burnaby Business Licence Bylaw 2017* and Section 60 of the *Community Charter* (**refer to Attachment #2**).

The decision to cancel the business licence was based on the foregoing information. The Chief Licence Inspector believes that reasonable cause exists to cancel the business licence.

7.0 POST CANCELLATION COMPLAINTS AND ACTIONS

By letter dated 2019 July 19, Pure Hookah's legal counsel responded to the Chief Licence Inspector's decision to cancel Pure Hookah's business licence (**refer to Attachment #13**) advising that the business will continue to remain open and operate until 3:00am, despite the business licence cancellation.

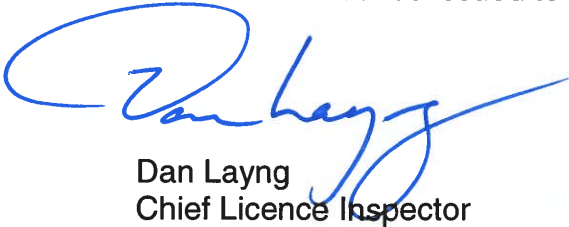
Since the cancellation of the business on 2019 July 03, the Engineering Department and the Licence Office continued to receive complaints concerning 3863 Hastings Street. The Licence Office received two additional complaints that the business was open due to persons regularly arriving and departing. The Engineering Department also received two additional complaints concerning noise.

To: City Manager
From: Director Public Safety and Community Services
Re: Pure Hookah Lounge Inc. At 3863 Hastings Street
2019 September 17.....Page 7

Licence Office staff inspected the business premises on seven occasions from 2019 July 25 to 2019 September 05. On three of these occasions persons were noted inside the business premises engaged in either hookah consumption or watching television. As a result, three Bylaw Violation Notices were issued to the Pure Hookah Lounge Inc. for operating without a valid business licence.

8.0 RECOMMENDATION

It is recommended that Council uphold the Chief Licence Inspector's decision to cancel the business licence issued to Pure Hookah Lounge Inc.



Dan Layng
Chief Licence Inspector

RG:

Attachments

Copied to: City Manager
Director Public Safety and Community Services
Director Corporate Services
Director Engineering
City Clerk
City Solicitor
Officer in Charge., R.C.M.P. Burnaby Detachment
Liquor & Cannabis Regulation Branch (attn. McKenzie Castle)



Public Safety and Community Services Department
Licence Office

2019 April 03

FILE: BYL19-00011
BUS17-01333

Pure Hookah Lounge Inc.
3863 Hastings Street
Burnaby, BC V5C 2H7

SUBJECT: CONDITIONS APPLICABLE TO THE BUSINESS LICENCE GRANTED TO PURE HOOKAH LOUNGE INC. OPERATION AT 3863 HASTINGS STREET

Further to the meeting between the operators/owners of Pure Hookah Lounge Inc. and the City of Burnaby, on 2019 March 14, this letter is to advise you that a decision in regard to the ongoing operation of the business has been reached.

Since 2018 December 09, the operation of Pure Hookah during the late evening and early morning hours has resulted in 21 RCMP calls for service due to noise.

The hourly breakdown of calls to the RCMP is as follows.

Between the hours of:	Number of calls:
2200-2259	2
2300-2359	8
0000-0059	3
0100-0159	2
0200-0259	3
0300-0359	3

In addition to the RCMP calls for service, between the dates of 2018 April 14 and 2019 March 26 the Burnaby Engineering Department received 39 noise complaints related to the business.

In consideration of the impact that Pure Hookah's operation is having on the surrounding community, effective the date of this correspondence, the business licence issued to Pure Hookah Lounge Inc. (BUS17-01333) to operate as a restaurant at 3863 Hastings Street, will have the permitted daily hours of operation limited to between 7:00 am to 11:00 pm only. The business is not permitted to operate between the hours of 11:01 pm and 6:59 am. All customers of the business must leave the premises before 11:00 pm.

Q:\1 Business Licence Admin\10 Business Licence Letters\2019 2019 March 14 Meeting Follow up Pure Hookah (2).docx

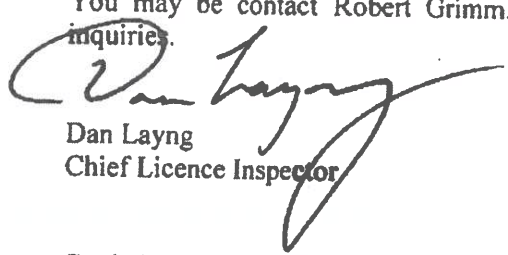
4949 Canada Way, Burnaby, BC V5G 1M2 ❖ Telephone 604 294 7320 Fax 604 294 7163 ❖ www.burnaby.ca

Subject: *Pure Hookah Lounge Inc. at 3863 Hastings Street*
2019 April 03..... Page 2

Section 3.2 of the Burnaby Business Licence Bylaw 2017 provides the Chief Licence Inspector the authority to impose terms and conditions in respect to a business licence granted under the bylaw. An amended 2019 Burnaby Business Licence noting the permitted hours of operation conditions is included. The licence is required to be posted in a conspicuous place on the business premise at all times.

Should Pure Hookah Lounge Inc. not comply with these hours of operation conditions, the business licence to operate may be suspended or cancelled pursuant to Section 7.1(a) of the Business Licence Bylaw, or a Bylaw Violation Notice under Section 11.7(c) may be issued.

You may be contact Robert Grimm, Property Use Coordinator, at 604-294-7989 with any inquiries.



Dan Layng
Chief Licence Inspector

Copied to: Pure Hookah Lounge Inc.
18936 55th Avenue
Surrey, BC V3S 6W7

City Solicitor
Deputy Director Engineering
Fire Chief - Burnaby Fire Department
Officer in Charge - Burnaby RCMP Detachment



Public Safety and Community Services Department
Licence Office

2019 July 03

FILE: BYL19-00011
BUS17-01333

Pure Hookah Lounge Inc.
18936 55 Avenue
Surrey BC V3S 6W7

**SUBJECT: CANCELLATION OF BURNABY BUSINESS LICENCE (BUS17-01333)
ISSUED TO PURE HOOKAH LOUNGE INC OPERATING AT 3863
HASTINGS STREET, BURNABY, BC**

Despite previous correspondence dated 2019 April 03, (copy enclosed) advising Pure Hookah Lounge Inc. that due to numerous noise complaints, the permitted daily hours of operation for the business located at 3863 Hastings Street would be limited to between 7:00 am and 11:00 pm, the Burnaby Licence Office and Engineering Department have received additional noise complaints from area residents and confirmation that the business continues to operate after 11:00 pm. As such and as further detailed below, we write at this time to confirm cancellation of the of the business licence issued to Pure Hookah Lounge Inc.

Since 2019 April 03, the Licence Office has received four complaints and the Engineering Department has also received four complaints, over and above those received prior to 2019 April 03. The Burnaby RCMP also report receiving five calls for service related to late night noise since 2019 April 03. As a result of three of the above noted calls for service, the RCMP attended Pure Hookah's business premises at 3863 Hastings Street, at 1:26 am on 2019 April 07, at 2:00 am on 2019 June 08 and again at 2:13 am on 2019 June 29. On all three occasions the RCMP found the establishment open and counted patrons/persons on site (25 patrons/persons on April 07, 33 on June 08 and 6 on June 29), in spite of the requirement to cease daily business operations by 11:00 pm. The RCMP attendance noted on 2019 April 07 resulted in the issuance of a Bylaw Violation Notice #L200879 to Pure Hookah Lounge Inc. for failure to comply with terms or conditions of the business licence. That violation notice remains unpaid as of the date of this letter.

Due to the failure of the business to abide with the conditions placed on the licence related to the permitted hours of operation, ongoing noise complaints received from area residents and, repeated calls for service to both City staff and the RCMP related to the operation of the business, the business licence (BUS17-01333) issued to Pure Hookah Lounge Inc. is forthwith cancelled. **Pure Hookah Lounge Inc. is required to cease operation of the business located at 3863 Hastings Street by 2019 July 05.**

Q:\2 Property Use (PUC)\PUC Letters\2019\Miscellaneous\Hastings Street 3863 Pure Hookah Lounge Inc 2019 July 03.docx

4949 Canada Way, Burnaby, BC V5G 1M2 ♦ Telephone 604-294-7320 Fax 604-294-7163 ♦ www.burnaby.ca

Pure Hookah Lounge Inc.

*Subject: Cancellation of City of Burnaby Business Licence (BUS17-01333) issued to
Pure Hookah Lounge Inc operating at 3863 Hastings Street, Burnaby, BC*

2019 July 03Page 2

Should the business continue to operate past this date Bylaw Violation Notice(s) for operating without a valid business licence, with a fine amount of \$500 per violation, will be issued daily. If required the city may also undertake legal action to ensure bylaw compliance.

Section 7.1(a) of the *Burnaby Business Licence Bylaw 2017* authorizes the Chief Licence Inspector to cancel a business licence "where a holder of a business licence has failed to comply with a term or condition of this Bylaw or the business licence".

Additionally, Section 8.1 of the bylaw provides for a holder of the business licence that has been cancelled by the Chief Licence Inspector, to "request that Council reconsider the decision by submitting a request for reconsideration to the City Clerk within 30 days of the decision of the Chief Licence Inspector".

If you wish to apply to have this matter heard before Council please contact the Office of the City Clerk within 30 days of the date of this letter. The Clerk can be reached at (604) 294-7290, via email at clerks@burnaby.ca or by mail at: City of Burnaby Clerk's Office, 4949 Canada Way, Burnaby, BC, V5G 1M2.

If you have any additional question please contact the undersigned.



Dan Layng
Chief Licence Inspector
Email: Dan.Layng@Burnaby.ca
Telephone (604) 294-7329

:dl

Copied to: City solicitor
 City Clerk
 Director PSCS
 OIC Burnaby RCMP

Summary of Engineering Complaints Received for Pure Hookah (3863 Hastings Street) from June 2017 to June 2019

Date (Time of Complaint)	Phone Call to Business operator/Property Owner	Site Visit	Letter to Business Operator/Property owner	Violation Notices	Comments
Jun 4/ 2017 12:47 am					Complainant resided in the same building as the Business. Advised Complainant to call residential tenancy branch
Apr 14/2018 10:50pm			Send letter to Property Owner		
May 7/2018 8:50pm					Complainant claims music and drumming occurs until 2:30am
May 8/2018 10:36pm					Complainant advised on Sunday May 6, music was loud from midnight to 1 am. And on Weekends until 2-4am
May 13/2018 5:30pm					Complaint of noise last night between 230am and 300am. Complainant says when the venue closes people pour out into the street and are very loud
May 14/2018 12:52am	Called business operator				Complainant called to advise the noise from business is loud until 230am last night
May 14/2018 8:31am					Complaint about noise last night
May 14/2018 10:51am	Phoned and spoke to Property owner regarding complaints		Second Letter send to property owner and Cc'ed business operator		Complaint about noise last night
May 17/2018 7:39am	Spoke to property owner regarding noise complaints				Complaint of noise last night
May 19/2018 12:58am		Yes (on May 23)			Noise measured. Ticket is for general disturbance clause.
May 19/2018 11:15pm		Yes			Noise measured.
May 20/2018 12:30am					Residential tenant complaint of loud music
May 21/2018 1:48am					Complaint of loud bass music.

Summary of Engineering Complaints Received for Pure Hookah (3863 Hastings Street) from June 2017 to June 2019

May 21/2018 1:50am					Complaint of loud bass music. (different complainant)
May 22/2018 11:36pm	Called Business operator on May 23 regarding complaints received				Complaint of loud music on Fridays and Saturdays until 3am
Jun 24/2018 1:17am					Complaint the patrons of the business are using their hookahs outside
Jun 30/2018 12:00am					Complaint of noise last night
Oct 29/2018 11:10pm			Letter sent to property owner (Nov 27)		Complaint of loud music until 2am
Dec 1/2018 11:25pm	ESC called business but no answer	yes			Complaint of loud music
Dec 3/2018 10:21pm					Complaint of loud music on Nov 30 and Dec 1
Dec 29/2018 12:54am					Complaint of loud music until 5 am.
Jan 20/2019 12:03am					Complaint of loud music
Jan 20/2019 12:26am					Complaint of loud music (2 nd complaint)
Jan 20/2019 1:57am					Complaint of loud music (3 rd complaint)
Jan 20/2019 2:03am	Jan 25 th . Called property owner and left msg.	Yes by BCLB staff			Complaint of loud music (4 th Complaint)
Feb 2/2019 11:30pm					Complaint of music
Feb 2/2019 11:31pm					Complaint of music (2 nd complainant)
Feb 2/2019 2:12am	Feb 15 th spoke to property owner				Complaint of music (same complainant as 11:30pm call))

Summary of Engineering Complaints Received for Pure Hookah (3863 Hastings Street) from June 2017 to June 2019

Feb8/2019 11:22pm					Complaint of music
Feb 26/2019 11:17am					Ongoing issues of noise at the business
Feb 26/2019 4:22pm					Ongoing issues of noise at the business
Mar 4/2019 8:16 am					Email received regarding ongoing complaints of issues related business
Mar 8/2019 10:46pm					Complaint of music
Mar 16/2019 12:01am					Complaint of music
Mar 22/2019 11:14pm					Complaint of music
Mar 23/2019 12:24am					Complaint of music
Mar 24/2018 12:36am					Complaint of music
Mar 25/2019 2:02am					Complaint of music
Mar 26/2019 1:20am					Complaint of music
Mar 26/2019 8:29am					Complaint of a fight that occurred on Saturday night and RCMP attended
Mar 30/2019 11:50pm					Complaint received of loud noise from Pure Hookah
Apr 1/2019 8:14am					Complaint of loud music from Hookah lounge last night from 9pm to 2:30am
Apr 5/2019 10:51pm					Complaint of noise from Pure Hookah Lounge
Apr 6/2019 10:44am					Complaint regarding loud music from Pure Hookah lounge last night from 12am to 3 am
May 19/2019 3:45am					Complaint of noise from Pure Hookah Lounge. Loud bass and people talking loudly outside.
Jun 5/2019 12:20am					Complaint of loud bass from Pure Hookah Lounge

Summary of Engineering Complaints Received for Pure Hookah (3863 Hastings Street) from June 2017 to June 2019

Jun 8/2019 11:03pm					Complaint of loud bass from Pure Hookah lounge
Jun 16/2019 4:12am					Complaint of loud music from Pure Hookah lounge
Jun 16/2019 4:12am					Complaint of loud music from Pure Hookah Lounge (different complainant)
Jun 21/2019 11:55am					Complainant called to inform City the Pure Hookah operator has now put tables and chairs on the sidewalk. They are obviously not following the rules.
Jun 22/ 2019 1:29am					Complaint of loud music from Pure Hookah Lounge keeping complainant awake

2019 August 21

Prepared by:

Vincent Wong, B.Sc., C.P.H.I.(C)
Environmental Services Officer
Burnaby Engineering Department

Attachment #4



Report to Burnaby City Council

2019-09-06

Burnaby RCMP Global file 2018-54933

Pure Hookah Lounge, 3863 Hastings Street

ATTACHMENT #4

Synopsis

The focus of this report is to document the on-going calls for service to police in regards to By-Law/Noise complaints.

On 2018-12-17 Burnaby RCMP created a global investigational file to monitor and investigate ongoing by-laws complaints regarding the business "Pure Hookah Lounge" located at 3863 Hastings Street Burnaby, BC

Complainants are residents in apartments located within 2 blocks of the business. In spite of repeated attendance by the RCMP and City officials the owner and operator demonstrated no change in their operating standards and demonstrated a blatant disregard for their neighbours and the RCMP.

Background

Starting on April 30th 2017 Burnaby RCMP have received repeated noise complaints. During this time Manbir SINGH has been identified by police as the owner and Jaison JOSE has been identified as the manager/operator. Both SINGH and JOSE have been present and spoken to repeatedly about the noise complaints. Over the reporting period there has been a steady increase in frequency of calls for service to the Pure Hookah Lounge primarily on weekends, and the complaints ranged from Noise By-Law, Over Capacity by-law, Illegal sale of liquor, Cause Disturbance by yelling or fighting, Assault Causing bodily harm and Impaired Driving complaints.

Police checks of appropriate indices indicate that the business does not have a liquor licence, but had repeatedly applied for Special Event Permits on weekends. The Special Event permit allows a business to sell liquor for a private event and has strict limitations. The business has been investigated by the Liquor Control and Licensing Branch and found to be in contravention of the issued license.

The attached list shows the synopsis of each police attendance related to By-law related complaints including the date, Initial time of call to the RCMP, RCMP file number, and details including report by the complainant and time of attendance and action of the RCMP.

Report on By-laws infractions

April 30th, 2017

2017-18232 (02:27 hrs), Burnaby RCMP received a noise complaint stating that the had been loud music coming from the Pure Hookah Lounge for 5 hours. At (03:14 hrs), Burnaby RCMP attended the Pure Hookah Lounge and 3863 Hastings Street in Burnaby, BC for a noise complaint of loud music from the lounge since (21:00 hrs). Police attended and spoke to business owner Manbir SINGH who stated he had a letter from the building owner stating that on Friday and Saturday nights until (03:00 hrs) he could play music as loud as he wanted to. SINGH was unable to produce the letter. SINGH agreed to turn the music down to a reasonable level and to have the letter from the building owner available for police to see if any further incidents.

May 24th, 2017

2017-22276, (22:27 hrs) Burnaby RCMP received a complaint of noise from the Pure Hookah Lounge, 3863 Hastings, Burnaby. The complainant believed that they were testing the music given the short durations. At (22:49 hrs) Burnaby RCMP attended and observed that the business was closed and no noise emanating from the premise.

May 27th, 2017

2017-22856, (23:31 hrs) Burnaby RCMP received a noise complaint regarding music from the Pure Hookah Lounge. The complainant stated that there has been construction for over three weeks and that when this was reported to the City of Burnaby the Complainant was advised that there was no business licence for this location. Complainant further stated that the owners had taken the numbers off the door and police would have trouble finding the location. Complainant just wanted the music turned down. Manbir SINGH was identified as the owner and claimed to have permission from the building landlord to play music until 2am. Police concluded the matter as civil via landlord/tenant and through by-laws.

June 2nd, 2017

2017-23699, (00:15 hrs) Burnaby RCMP received a report that loud music was being played at the Hookah Lounge, at 3863 Hastings Street, Burnaby. At (01:51 hrs) Members attended and spoke with the business owner, Manbir SINGH. SINGH stated that he had written authorization to play music over the weekends up to a reasonable decibel limit from the owner of the building and that the same information had been forwarded to all the tenants in the building and if a tenant had any objections, they need to deal with the owner of the building. The matter was concluded as civil.

June 4th, 2017

2017-24034 (00:22 hrs) (00:50 hrs) and (01:14 hrs) received repeated reports of loud music coming from the Pure Hookah Lounge located at 3863 Hastings St. At (02:39 hrs) Burnaby RCMP attended the business and did not hear any loud music playing. Burnaby RCMP learned from previous noise complaint files that the business claims to be allowed to play music until its closing hours at 03:00 hours. Burnaby RCMP advised the Complainant via voicemail that the noise complaint is a civil issue and the complainant would need to contact the strata of the building and the City of Burnaby in regards to the allowable noise level.

June 7th, 2017

2017-29731 (23:14 hrs) Burnaby RCMP received a complaint regarding loud music breaching city bylaw at the Pure Hookah Lounge. At (00:16 hrs) Burnaby RCMP attended the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby and spoke with the property representative Jaison JOSE. JOSE showed a laminated letter from the landlord stating that the Pure Hookah Lounge is permitted to use a sub woofer until 2am on Fridays and Saturdays in a controlled manner. Burnaby RMCP members observed the music was at a reasonable volume on entry. JOSE was advised to turn the volume down a bit to meet City Bylaw standards. JOSE stated that he would cooperate and turn down the music.

July 9th, 2017

2017-29918 (03:12 hrs) Burnaby RCMP received a complaint of loud bass and music coming from the Pure Hookah Lounge. The caller called back at (03:57 hrs) to report that the noise was still ongoing. At (04:01 hrs), Burnaby RCMP responded to the noise complaint at Pure Hookah located at 3865 Hastings St, Burnaby. Upon attendance Burnaby RCMP found Pure Hookah Lounge closed, with lights off and did not hear any music coming from the location.

July 13th, 2017

2017-30608 (00:14 hrs) Complainant reported noise from the Pure Hookah Lounge, at 3865 Hastings, Burnaby. The building is shaking. At (02:30 hrs) Burnaby RCMP arrived on scene and observed that the premise was closed.

July 15th, 2017

2017-31004 (01:43 hrs) Complainant reporting a noise complaint at Hookah Lounge Night Club (from history, business name "Pure Hookah Lounge") on main floor located at 3865 Hastings St. Very loud music and bass. No signs of violence. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

July 16th, 2017

2017-31306 (23:45 hrs) Complainant reporting a noise complaint in the form of loud music from the Hookah Lounge at 3863 Hastings St. Burnaby. At (23:58 hrs) Burnaby RCMP spoke with the Pure Hookah Lounge property representative, Jason JOSE, who informed them that he is licensed to play music without bass until closing time at 03:00 hours. Queries of Pure Hookah lounge showed other members seeing the authorization from the landlord consenting to the business activity. Attending Burnaby RCMP members noticed the noise was not excessively loud. On July 17th 2017, Burnaby RCMP contacted City of Burnaby By-Law and confirmed an active temporary business licence for Pure Hookah Lounge pending building / fire inspections. Burnaby RCMP referred the consistent noise complaints to City of Burnaby Sound and Engineering Department and was informed that collaborative complaints from other tenants and neighbours are needed in order to constitute a neighbourhood disturbance. If at that point, Pure Hookah Lounge does not comply with a neighbourhood disturbance complaint, elements of offence will be met for a commercial noise complaint violation.

July 30th, 2017

2017-33821 (23:50 hrs) Complainant reporting a group of Patrons from the Pure Hookah Lounge outside the business, intoxicated and that there had just been a fight and that the involved parties had left. Complainant upset as business does not have a liquor licence and issues regularly on weekends. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

November 29th, 2017

2017-54635 (18:15 hrs) An anonymous source reporting to the Burnaby RCMP that the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby is selling liquor on weekends. Burnaby RCMP contacted the LCLB and determined that there was no liquor licence. Burnaby RCMP as there was no liquor licence the matter fell to the police or City of Burnaby to resolve. Burnaby RCMP contacted the City of Burnaby and advised the by-law department that the business may be operating outside its licence.

December 23rd, 2017

2017-58362 (02:47 hrs) Complainant reported noise coming from Pure Hookah Lounge located at 3863 Hastings St, Burnaby. Complainant stated there is loud music, talking, and loud laughing had started at (20:00 hrs) and continued until they called Burnaby RCMP responded to previous noise complaint dealings with Pure Hookah Lounge and confirmed the business permit allows the lounge to remain open until (04:00 hrs) (granted, with no bass blaring.) Burnaby RCMP attended at (03:28 hrs) and observed that the music playing was barely able to be heard outside the lounge, the music had no bass, and all patron(s) were inside the lounge with no disturbance outside the premises. Burnaby RCMP spoke with the business owner Manbir SINGH who was compliant and informed the lounge will be shut down at 04:00 hours.

February 18th, 2018

2018-7279 (02:27 hrs) Complainant reporting a noise complaint at the Pure Hookah Lounge, 3863 Hastings Street, Burnaby that has been ongoing since (23:00 hrs) yelling and screaming but not in distress. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

February 26th, 2018

2018-8372 (00:20 hrs) Complainant calling to report a noise complaint regarding loud music coming from the Pure Hookah Lounge at 3863 Hastings St, Burnaby BC.
At (03:30 hrs) Police responded and observed the Pure Hookah Lounge closed and no visible signs of noise. Police voice mail advising the complainant to speak with the manager of Pure Hookah Lounge, the building manager and Burnaby Bylaw's regarding the noise.

March 9th 2018

2018-10243 (23:41 hrs) complainant calling about very loud noise coming from the Pure Hookah Lounge, 3863 Hastings Street, Burnaby. Complainant called back at 00:48hrs the same night to report that the music was still ongoing. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

Mar 18th, 2018

2018-11546 (03:30 hrs) Complainant reporting loud music and bass coming from the Pure Hookah Lounge. At (04:27 hrs) Burnaby RCMP attended 3863 Hastings Street, the Pure Hookah Lounge and spoke with Manbir SINGH, owner of the Pure Hookah Lounge. Burnaby RCMP observed no loud music coming from the lounge. Only soft music being played while the staff was enjoying their food after closure of the business. No more loud noises were reported.

April 6th, 2018

2018-14531 (21:47 hrs) Complainant reporting loud music coming from the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby shaking the windows of the building. At (22:13 hrs) Burnaby RCMP attended, spoke with owner Manbir SINGH and observed music was not playing excessively loud. Matter was previously referred to city By-Law and concluded with notice that collaborative complaints from other neighbours were needed in order to constitute a commercial neighbourhood disturbance/authority for enforcement. Previous police attendance confirmed building owner consents to commercial music.

April 8th, 2018

2018-14730 (02:27 hrs) Complainant reported a group of approximately 8 people on the street in front of the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby, laughing and making noise, disturbing the neighbours. At (02:34 hrs) Burnaby RCMP members attended and spoke to several male and female patrons out in front of the business. No one was being overly loud on police attendance. All were compliant and agreed to take it inside. Burnaby RCMP also spoke to property representative Jason JOSE, who advised he was powerless to enforce the noise outside, but he would try and make people aware. Complainant stated it was an on-going issue every weekend. Complainant was asked to compile police file numbers and make a complaint to the City of Burnaby.

April 22nd, 2018

2018-16854 (01:07 hrs) Complainant called the Burnaby RCMP to report a noise bylaw complaint regarding the Pure Hookah lounge located at 3863 Hasting St, Burnaby, BC. Complainant was bothered by the business' loud music that had thumping bass. At (03:28 hrs) a second complainant called the Burnaby RCMP to report a physical fight outside the same lounge. At (03:28 hrs) Burnaby RCMP members were dispatched to the file and arrived on scene at (03:40 hrs). Upon arrival Burnaby RCMP observed several large groups of people who were wrestling and generally milling about on the sidewalk outside of the lounge, no assault/fight was observed. Burnaby RCMP directed them to move along. Police then met with two males: Jesvinder SINGH and his brother Manbir SINGH who claimed they ran the lounge. Immediately both brothers were confrontational with Police. Jesvinder had in his hand a laminated letter from a person whom he claimed was the building owner (not able to confirm) who reportedly gave him permission to operate the business until (04:00 hrs). Neither of the SINGH brothers appeared willing to work with Burnaby RCMP to reduce the calls for service regarding the noise bylaw issues from the business and its customer's behaviour outside the business. The disturbance outside the business was addressed, the stereo was turned down and Burnaby RCMP departed the area.

April 29th, 2018

2018-18006 (01:41 hrs) Multiple complainants contacted the Burnaby RCMP regarding loud music. At (02:50 hrs) Burnaby RCMP attended the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby and spoke with the property representative Jaison JOSE. JOSE showed a laminated letter from the landlord stating that the Hookah Lounge is permitted to use a sub woofer until 2am on Fridays and Saturdays in a controlled manner. Music was at a reasonable volume upon arrival. JOSE was advised to turn the volume down a bit to meet City Bylaw standards. JOSE stated that he would cooperate and turn down the music. At (03:13 hrs) the second complainant called reporting a number of patrons standing in front of the building talking loudly. When police arrived there was a dispute between a female patron and a taxi driver regarding a fare. Police moved all parties along.

May 9th, 2018

2018-19609, Complainant living on Pender Street, Burnaby, contacted the Burnaby RCMP reporting of loud music being played at the Pure Hookah Lounge on 3863 Hastings St, Burnaby till (04:00 hrs) every night, especially over the weekends. Cst KAPUR updated the complainant on the Noise Bylaw of the City of Burnaby. Complainant was advised to contact police when she was being disturbed by the loud music after (22:00 hrs).

May 11th, 2018

2018-20032, (23:44 hrs) Burnaby RCMP received a report of a noise complaint from Pure Hookah Lounge at 3863 Hastings Street Burnaby, BC. Complainant stated the business was playing loud music. Burnaby RCMP members attended and spoke with manager, Jaison JOSE. JOSE produced a laminated paper claiming he had permission from the landlord to play loud music (within Bylaw's requirements) after (22:00 Hrs). JOSE stated that he was working with the City to get an official written approval for having loud music after (22:00 hrs). JOSE showed Burnaby RCMP that he was playing loud music well under the maximum 45dBA with a decibel reader off his phone. JOSE stated he will keep the entrance door close and will be turning the music lower at (02:00 hrs). Burnaby RCMP noticed the volume outside the business was lower with the entrance door closed. Member updated Complainant to contact City of Burnaby regarding concerns with the noise after hours.

May 12th, 2018

2018-20196 (23:20 hrs) Burnaby RCMP received a report of a noise complaint at Pure Hookah Lounge at 3863 Hastings Street. Burnaby, BC. Complainant stated that whenever the door opens, it amplifies the music. RCMP Call Taker had advised the Complainant to contact the City of Burnaby with ongoing issue. Burnaby RCMP did not attend until (01:43 hrs) due to priority calls. Burnaby RCMP spoke with Manager, Jaison JOSE. Burnaby RCMP had previously attended on 2018-05-11 regarding the same issue. Burnaby RCMP asked JOSE to inform his customers to exit the business quickly and not linger with the door open for too long. JOSE stated that he will inform his customers of Police suggestions. JOSE stated the bass will be turned down at (02:00 hrs) and the business will be closing at (04:00 hrs) JOSE informed Burnaby RCMP members he is continuing to work with the City of Burnaby to get a proper noise permit.

May 19th, 2018

2018-21206 (00:26 hrs) (00:32 hrs) Complainants reporting a noise complaint from Pure Hookah Lounge located at 3863 Hastings Street. Noise consisted of loud music playing however no sounds of violence. The second Complainant reported loud music from the same business, lots of loud talking outside, not violent. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

Burnaby RCMP notified Burnaby Environment Services (with decibel readers) of this file, via City Works Yard. No longer have anyone on duty from that department, but the head of department is aware of this location and the ongoing problems. She will follow up with the location during the day. File number of this complainant provided to works yard.

2018-21385 (23:05 hrs) and (23:39 hrs) Burnaby RCMP received the initial calls reporting that Complainants could hear loud bass music and rowdy patrons at the Pure Hookah Lounge, located at 3863 Hastings Street in Burnaby. At (23:37 hrs) on arrival, police spoke with the property manager, Jaison JOSE, who stated that he was aware of ongoing issues but stressed that he was below the required decibel levels. Burnaby RCMP did not observe any patrons on the exterior of the business. No patrons appeared to be consuming alcohol and no patrons appeared rowdy or noise-some. CAD comments showed that the City Works Yard was advised of the bylaw complaint and was sending over an inspector. JOSE agreed to lower the volume but argued that he was within decibel limits.

Additional Complainants call reporting on May 20th 2019 at (00:28 hrs) requesting police to re-attend and the business turned the music back up after police left the area.

(01:20 hrs) reporting loud music and patrons on the sidewalk yelling and being extremely loud.

May 27th, 2018

2018-22573 (00:22 hrs) complainant reporting loud music from the Pure Hookah Lounge at 3863 Hastings Street. Complainant advises that during conversations with Bylaws over this ongoing issue, Bylaws has confirmed this facility does not have a licence for music, that the property reference will produce a document claiming to be allowed to be loud, but the document is from the landlord not the City. Patrols were not conducted due to other police related matters.

June 10th, 2018

2018-24879 (01:47) Noise complaint. Loud bass at Pure Hookah Lounge, located at 3863 Hastings Street, Burnaby. Complainant, unable to sleep. Ongoing issue every weekend. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint.

June 23rd, 2018

2018-27087 (00:26 hrs) Complainant called reporting loud music from the Pure Hookah Lounge located at 3863 Hastings Street. At (02:18 hrs) Burnaby RCMP attended the business and spoke with the property rep Jason JOSE. JOSE stated they have a permit for the noise until 0400 hours regarding the music.

June 28th 2018

2018-32973 (01:50 hrs) Complainant reported the Pure Hookah Lounge was playing loud music with heavy base and this noise was keeping them up. Complainant reported this was an ongoing problem with the Pure Hookah Lounge. At (03:06 hrs) Burnaby RCMP attended 3863 Hastings Street and could hear music coming from inside of the business. The music was not excessively loud with the doors closed. However, every time the doors were opened and patrons left, the noise increased substantially. Burnaby RCMP spoke with property representative Manbir SINGH. SINGH agreed to turn down the base. However, stated that he did not believe the noise was so great. Burnaby RCMP advised SINGH that the City of Burnaby By-Law office was going to be once again informed about the complaints. SINGH advised that he would have some one come in to install noise dampening inside of his business.

November 11th, 2018

2018-49588 (23:59 hrs) Complainant reporting loud music coming from the Pure Hookah Lounge at 3863 Hastings Street, Burnaby. Members were able to attend at (00:58 hrs) and located the business "closed" with a few customers inside. No Loud music could be heard from the outside.

2018-49462 (00:15 hrs) Complainant reporting females arguing outside Pure Hookah Lounge at 3863 Hastings Street and causing a disturbance on Hastings Street. Complainant further reported that there were a mix of males and females on from the business outside but the group that had was fighting had gone back inside. Due to unrelated police matters the Burnaby RCMP were unable to attend until (03:50 hrs) at which time the females were not located.

December 9th 2018

2018-53746 (03:47 hrs) Received 911 calls from 3863 Hastings Street, The Pure Hookah Lounge. Burnaby RCMP attended the Pure Hookah Lounge for a report of a male (Jesvinder SINGH), inside the business throwing around items and trying to choke people. Burnaby RCMP officers spoke with SINGH and Jaison JOSE, who both said they were co-owners of the business. JOSE told police that he and SINGH were family and that they had just had a disagreement. JOSE and SINGH were instructed to close the business for the night, and the file was labelled a Civil Dispute by the attending officer. Further investigation shows that JOSE is the business manager and Jesvinder SINGH is the brother to the owner Manbir SINGH.

December 22nd 2018

2018-55717 (00:12 hrs) Burnaby RCMP received a report of a noise complaint at the Pure Hookah Lounge. Complainant, [REDACTED] stated there were people out front of the business talking loudly and swearing. RCMP attended 3863 Hastings Street and observed a group of 5 persons outside talking loudly. RCMP spoke with the patrons advised them to keep the noise down. Patrons complied. No charges.

December 27th, 2018

2018-56366 (02:36 hrs), Burnaby RCMP received a report of Base music from inside 3863 Hastings Street and people having loud conversations outside the Pure Hookah Lounge. The dispatched Burnaby RCMP member had already liaised with the City of Burnaby Engineering Department regarding the numerous noise complaints about the establishment. The member was informed that the Pure Hookah Lounge is currently operating within the by-law and its current license.

Burnaby RCMP member had been told to advise all callers from the surrounding buildings to call City By-law independently in order to substantiate a by-law noise complaint under the community disturbance by-law.

2018-56502 (23:08 hrs), Burnaby RCMP received a report of a noise complaint the Pure Hookah Lounge located at 3863 Hastings Street, in which Complainant reported a heavy bass sound was coming from the business. Complainant also reported that there were people out from the business talking loudly and the people were going in and out of the business. Burnaby RCMP attended and spoke with employee, [REDACTED] and requested that the music be turned down and that the persons outside the business quiet down.

(01:00 hrs) Burnaby RCMP had to re-attended the business for a second call of patrons outside the business talking too loud. Patrons were told to quiet down again.

January 6th 2019

2019-786 (01:10 hrs) (01:40 hrs) (01:42hrs) (02:05 hrs), 3 Complainants reporting a noise to the Burnaby RCMP, at the Pure Hookah Lounge, 3863 Hastings Street, Burnaby.

Delay due to unrelated police matters however the RCMP attended the business at (02:42 hrs), and spoke with Property representative Jaison JOSE, and told him to turn down the volume of the music being played at the business. JOSE complied and turned down the music.

January 12th 2019

2019-1808 (23:54 hrs), Complainant reporting noise from the Pure Hookah Lounge, 3863 Hastings Street.

At (00:15) hours, Burnaby RCMP arrived on scene and could immediately hear the music and bass music echoing from inside the business. Burnaby RCMP spoke with Jeswinder SINGH who identified himself as the property manager, and advised him of the reason why police were in attendance. SINGH stated that he's aware of on-going noise complaints made by tenants upstairs and is currently dealing with the issue with the City-of-Burnaby. In conversation with SINGH was adamant about the noise level operating within the city's bylaw limits and policy. SINGH provided police his "special event permit issued under the liquor control and licensing act" which allows the business to serve liquor on January 12th 2019. The permit states: January 12th 2019 for special event start time from 6PM to 4AM for up to **30 attendees** and service start time (liquor) from 9PM to 2AM.

Burnaby RCMP further inquired about the number of occupants inside the establishment and requested his permit for the maximum number of occupants allowed. SINGH was unable to provide a permit but stated that he has a maximum number of occupants of 45 people. Burnaby RCMP observed over 60 people inside the business and directed SINGH to start requesting people to leave the establishment due to over capacity.

January 13th, 2019

2019-1820 (02:21 hrs) Second Complainant calling Burnaby RCMP this morning reporting the sound of bass music coming from the Pure Hookah Lounge at 3863 Hastings Street. Burnaby RCMP member re-attend to the Pure Hookah Lounge and observed a group of people was coming in and out to the business. A loud music was coming out of the business. Burnaby RCMP requested Jesvinder SINGH, who was a property representative, to shut down the music as they claimed the had permission to have it up to 200 hours. SINGH shutdown the music and stood outside of the business requesting their customers to be inside.

(03:57 hrs) Jaison JOSE reporting that patrons leaving his business are being loud and refusing to leave.

January 20th, 2019

2019-2885 (00:00 hrs) RCMP received multiple reports of noise from the Pure Hookah Lounge, 3863 Hastings Street. Delay due to unrelated police matters however the RCMP attended the business at (02:12hrs) responding to a noise complaint at the Pure Hookah Lounge. Burnaby RCMP observed about 50 to 60 patrons inside, and about 15 patrons in a line outside of the business waiting to get in and a male who identified himself as a doorman attempting to stop police from entry stating that they would have to wait. Business DID NOT have a liquor licence or Special Event Permit, to serve alcohol that night, and most patrons were drinking out of red solo cups. Burnaby RCMP observed an empty bottle of whisky and multiple boxes of Corona beer in the storage area. Property manger Jesvinder SINGH attended and was confrontational with police stating that they required a warrant to enter the business. Burnaby RCMP also observed a posted sign on the exterior of the business from the Minister of Justice indicating that the Occupancy Load of the business was 30 persons. Patrons were told to leave from the business.

January 26th 2019

2019-3795 (01:45 hrs), Burnaby RCMP responded to a noise complaint at the Pure Hookah Lounge, after reports of loud music and intoxicated persons outside of the business. RCMP attended and spoke with manager Jesvinder SINGH again attempted to refuse access to the business, requesting the police produce a warrant. Cpl. LALJEE attended and told SINGH to turn down the music, which he did at (02:00 hrs).

January 27th 2019

2019-3949 (02:52 hrs), Burnaby RCMP received a report of a noise complaint at the Pure Hookah Lounge at 3863 Hastings Street, Burnaby, and it was reported that loud music was playing from inside the business. RCMP followed up with the complaint and advised them to contact Burnaby By-Law about noise complaint enforcement.

February 2nd 2019

2019-4889 (02:15 hrs) neighbour reports loud bass music from the Pure Hookah Lounge At (03:47hrs) and again at (04:32hrs) Complainant repeatedly called the Burnaby RCMP and reported that there was loud bass coming from Pure Hookah Lounge located at 3863 Hastings Street in Burnaby, BC. Burnaby RCMP attended and spoke to employee, [REDACTED]. [REDACTED] advised that he already turned the volume down and that the premises would be closing shortly. HAJI-BOLW agreed to further turn down the volume.

2019-5024 (23:12 hrs) Burnaby RCMP received four separate complaints this evening regarding noise coming from the Pure Hookah Lounge. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

February 8th 2019

2019-5943 (23:33 hrs and 23:38hrs) Two separate callers reporting bass music coming from the Pure Hookah Lounge, 3863 Hastings Street. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint .

February 9th 2019

2019-5976 (03:43 hrs) RCMP received a report of loud music and bass coming from the Pure Hookah Lounge, 3863 Hastings Street. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

2019-6088 (23:18 hrs) Multiple Complainants reported excessive noise coming from Pure Hookah Lounge at 3863 Hastings St. Burnaby. Upon Police arrival, Burnaby RCMP observed multiple open bottles of beer and patrons pouring liquor in small cups. Burnaby RCMP observed +90 people within the business. Within the premises Burnaby RCMP were approached by the property representative, Jose JAISON. JAISON was angry were present. JAISON stated police have no authority to be in the business. Burnaby RMCP observed no liquor license displayed, no business license displayed, and no max capacity sign displayed. JAISON presented a max capacity sign which stated only 30 occupants are permitted within the business. The excess of occupants left the business as directed however Jose and other occupants were hostile to police presence.

February 10th 2019

2019-6238, At about (2315 hrs), Burnaby RCMP attended the Pure Hookah Lounge located at 3863 Hastings Street, Burnaby, BC, to speak with any manager/owner in regards to serving a licenced premise check for Burnaby file 19-6088. The manager verbally identified himself as Jaison JOSE although he was unable to produce identification. Burnaby RCMP recognized him to be the same male dealt with previously. Burnaby RCMP served and explained the licenced premise check to JOSE and left him with his copy. There were no capacity violations observed this date however the business still did not have a liquor licence or business licence displayed in plain view. When asked about this a Fraser Health Permit to Operate was shown and Fire commissioner permit to have 30 persons occupancy was pointed out. JOSE was unable to produce or provide his Business licence number at the request of Burnaby RCMP.

February 17th 2019

2019-7129 (02:50 hrs) Multiple 911 calls regarding a fight occurring at the Pure Hookah Lounge, 3863 Hastings Street, Burnaby. Multiple RCMP members responded. The matter remains under investigation

February 22nd 2019

2019-7963 (23:02 hrs) RCMP received two complaints of bass music coming from the Pure Hookah Lounge. At (04:52 hrs), Burnaby RCMP attended the Pure Hookah Lounge at 3863 Hastings Street for multiple noise complaints. Burnaby RCMP noted the business was open and the open sign illuminated. Burnaby RCMP noted there were approximately 10 patrons in the store. No open liquor was observed. Burnaby RCMP spoke with staff member Jaison JOSE who advised that the business was closed at (04:00 hrs). However, some staff members and customers were still waiting for taxi and he did not want them to wait outside. Burnaby RCMP noted there was background music playing at a somewhat moderate-loud volume. Burnaby RCMP requested the open sign of the business and the music be turned off and JOSE complied.

March 1st 2019

2019-9017 (22:43 hrs) Burnaby RCMP received a complaint of noise from the Pure Hookah Lounge, 3863 Hastings Street. At (00:26 hrs) Burnaby RCMP members attended the area and parked across Hastings Street directly south of the business. Music could be heard coming from the business and it became loud each time the front door was opened. Burnaby RCMP members entered the business and spoke with JOSE who initially identified himself as Manbir SINGH. JOSE displayed a complete disrespect for his neighbours stating **"if they don't like the noise they can move"**.

At (02:00 hrs) Burnaby RCMP returned to the business and again noted that music could still be heard outside but became loud each time the front door was opened and the patrons or staff exited to smoke on the street. At (03:10 hrs) Burnaby RCMP made another walkthrough of the business. The noise was the same as noted earlier. There were 22 people in the business. JOSE was argumentative stated that the noise level was below the decibel limit. Burnaby RCMP explained the nuisance bylaw and JOSE continued to argue that he could not be a nuisance if the volume was below the by-law decibel limit

March 2nd 2019

2019-9176 (23:37 hrs) RCMP received a noise complaint regarding the Pure Hookah Lounge and a second complaint at (00:35 hrs) on March 3rd. At (03:32hrs) Burnaby RCMP attended 3863 Hastings Street, the business, and observed four patrons outside smoking and talking. Music could be heard outside and became louder each time the front door opened. Burnaby RCMP spoke with JOSE who clearly stated that he was knowingly over capacity by 7 people. Burnaby RCMP remained at the business until the music was turned down and 7 patrons departed. 2019-9192 RCMP observed a vehicle parked in front of the Pure Hookah Lounge blocking a fire hydrant. As police were issuing a by-law parking ticket staff from the Pure Hookah Lounge exited the business and attempted to explain that it was their vehicle and they were using the location to unload fresh "coals".

March 5th 2019

2019-9808, (20:00hrs) Burnaby RCMP attended the Pure Hookah Lounge, 3863 Hastings Street to discuss liquor act and By-law infractions. Upon arriving the Business doors were unlocked and there were 12 patrons inside. Police requested to speak with a staff member but no one present worked at the business. The business was open and there was a stove on with coals on top of a red hot element. Due to the business being open, and there being no one taking responsibility to manage the property and the public safety issue of a stove element on full, Burnaby RCMP requested that the parties exit until staff arrived. After a period of time JOSE attended and was confrontational with Burnaby RCMP and refused to provide identification. JOSE was yelling over Burnaby RCMP as they attempted to explain why they were present. A Burnaby RCMP Supervisor attended and explained to JOSE the reason for the police attendance and actions ending JOSE's confrontational behaviour.

March 10th 2019

2019-10218 (03:19 hrs) Burnaby RCMP received two calls regarding noise coming from the Pure Hookah Lounge. At (03:40 hrs) Burnaby RCMP attend 3863 Hastings Street and locate the business open and music can be heard. Police are again called at (04:20 hrs) reporting that the music had been turned back up. Police re-attend locate 4 people inside the business and JOSE is cleaning the bar. JOSE confirms that the business is closed turns off the music.

March 16th 2019

2019-11132 (00:35hrs) Burnaby RCMP received a report of excessive noise coming from the Pure Hookah Lounge, 3863 Hastings Street. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint until (05:42 hrs). The business is closed.

March 22nd 2019

2019-12155 (23:16hrs) At (00:11 hrs) multiple Burnaby RCMP members attended the Pure Hookah Lounge, 3863 Hastings Street and spoke with PR Jaison JOSE. Which Police advised JOSE regarding the noise complaint. JOSE stated Police needed a prove that the noise was over the limit and refused to turn down the music until 01:00. JOSE was requested for business documents however, did not know where they were. Police conducted a head count of the occupants within the business. Police counted 43 people in the business, which was over the limit of 30. JOSE was confrontation with Police regarding the head count due to people leaving and entering the business. Police advised JOSE if the noise continues then Police would return. JOSE stated he would turn the music down at 1.

March 23rd 2019

2019-12305 (23:38hrs) Police receive a report of noise coming from the Pure Hookah Lounge, 3863 Hastings Street, and intoxicated people "hooting and Hollering" The complainant calls back reporting the patrons flee out the back when police attend.

(00:13hrs) additional caller regarding noise

(00:30hrs) additional caller regarding noise

(00:45hrs) additional caller regarding noise

(01:25hrs) Complainant calling back reporting noise still ongoing

(01:32hrs) additional caller reporting a fight with a male on the ground

(01:34 hrs) additional caller reporting the fight now onto the roadway, a large group of males that all came out of the Pure Hookah Lounge

(02:12 hrs) Complainant calling back reporting noise is still ongoing and now a patron is throwing up at their window

Burnaby RCMP attended on two occasions during the night (00:50 and again 02:05hrs)

March 24th 2019

2019-12325 (03:25 hrs) Noise Complaint from the Pure Hookah Lounge at 3863 Hastings Street, complainant reporting noise going on all night, people standing on road and cars honking at business. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

March 30th 2019

2019-13313 (23:19 hrs) noise complaint from Pure Hookah Lounge, 3863 Hastings Street, loud music and loud people outside. Due to unrelated policing matter the Burnaby RCMP were unable to attend to this complaint

April 3rd 2019

2019-13764 (01:02 hrs) Police received a report of uttering threats. The underlying issue was noise complaints that were not being resolved. Complainant advises that he called the Pure Hookah Lounge requesting that they turn down the music. Complainant stated that he was told they would not turn down the music and that they would beat him up. Police call the same number provided by the complainant and speak with a male who identifies himself as Manbir SINGH. RCMP attended the business 3863 Hastings Street at (01:38 hrs) and found the business open and 8 people inside. Police investigate and determine that the Complainant called and spoke with SINGH who admitted he had spoken to the complainant but did not make any direct threats. SINGH advised that the complainant had previously vandalized their business and would often yell at patrons outside the lounge. SINGH stated he told the complainant that if he had a problem then he could meet them outside the lounge. SINGH admitted to Burnaby RCMP that his tone was aggressive but did not mean to threaten.

April 5th 2019

2019-14222 (22:41 hrs) Noise complaint from neighbours of the Pure Hookah Lounge at 3863 Hastings Street. At (23:19 hrs) RCMP attend and locate the business open. Burnaby RCMP served the letter from the city to staff.

April 6th 2019

2019-14234 (00:22 hrs) Second complaint regarding the pure Hookah Lounge, 3863 Hastings Street. Burnaby RCMP attended at (01:51 hrs) and located the business open in spite of the letter the Burnaby RCMP had served. A head count of the business was conducted and there were 32 people inside. RCMP remained at the business until the number of people inside was 29.

April 7th 2019

2019-14372 (01:14 hrs) Complainant who resides 3800 block Hastings Street reporting yelling and possible fight or distress related to the patrons of Pure Hookah Lounge, 3863 Hastings Street. (01:14 hrs) Burnaby RCMP the front door was locked however the back door was open and unsupervised. A total of 25 people were located inside the business with an unconfirmed number of people inside a locked bathroom.

Burnaby RCMP spoke with JOSE regarding the complaint who claimed that he had kicked everyone out at (22:50 hrs) and that the 25 people inside were friends and family.

2019-14380 (03:47 hrs) Complainant calls back same night reporting 8 people outside the business and yelling coming from the Pure Hookah Lounge. Burnaby RCMP attended at (04:05 hrs) and located JOSE still in the business however no one was located yelling and no signs of distress.

May 19th 2019

2019-20576 (03:46 hrs) Complainant who resides 3800 block Hastings Street reporting excessively loud bass, party sounds and noisy intoxicated people out front of the Pure Hookah Lounge, 3863 Hastings. At (07:05 hrs) Burnaby RCMP attended and located business unlocked, evidence of large party inside and strong odour of liquor inside business. A male [REDACTED] was located inside sleeping on a couch. [REDACTED] stated that they had closed at 11pm the night prior.

June 8th 2019

2019-23985 (23:03 hrs) Complainant resides 3800 block Hastings Street reported loud music coming from inside the Pure Hookah Lounge, 3863 Hastings Street and that it was ongoing since (22:30 hrs). (00:20 hrs), Burnaby RCMP attended and spoke with JOSE who stated that he was hosting 33 friends for a birthday party. JOSE understood that he was in conflict with maximum capacity for building and business licence.

June 16th 2019

2019-25154 (02:18 hrs) Complainant resides 3800 block Hastings Street reported that loud base music could be heard coming from the Pure Hookah Lounge, 3863 Hastings Street. Due to other unrelated priority matters Burnaby RCMP were only able to attend at (04:00 hrs). The business was closed.

June 22nd 2019

2019-26135 (01:20 hrs) First complainant resides 3900 block Hastings Street
2019-26136 (01:26 hrs) Second complainant resides 3800 block Hastings Street & third complainant resides 3900 block Hastings Street. All three complainants called police regarding noise, loud music and yelling over a short period of time from the Pure Hookah Lounge, 3863 Hastings Street.

At (04:06 hrs) Burnaby RCMP attended and heard no noise and found business to be closed, JOSE was present and denied any noise was made and that the business was following all the rules placed on them by the city.

June 29th 2019

2019-27303 (02:13 hrs) Complainant resides 3900 block Hastings Street called to report music could be heard from the Pure Hookah Lounge located at 3863 Hastings Street. At (02:36 hrs), Burnaby RCMP attended found business open and soft music could be heard outside, Burnaby RCMP counted 6 guests plus JOSE inside the business. JOSE confirmed that he understood his licence was revoked.

2019-27459 (23:30 hrs) Complainant resides 3800 block Hastings street called to report that for over an hour loud base could be heard coming from 3863 Hastings Street, Burnaby. At (03:28 hrs), Burnaby RCMP attended and found business open and could hear music outside. Burnaby RCMP stated spoke with JOSE who claimed that the business had closed at 23:00. JOSE stated that some of his friends and family had stayed. There were people inside the business.

August 10th 2019

2019-34120 (00:56 hrs) Burnaby RCMP attend to the Pure Hookah Lounge, 3863 Hastings Street, with Burnaby City bylaws officers. The business was open and JOSE was spoken to. JOSE claims that the 11 people inside the business are all friends and family. JOSE stated that he was opening the business to the public in the next two weeks regardless of having a business licence or not.

RCMP remarks

Cpl. KERMER notes that the ownership and management of this business have made no effort to correct the business practices that cause a nuisance to their neighbours. Further with complete knowledge of their capacity limits the business operators repeatedly have been found over capacity subjecting the public to risk. Finally, Mr. JOSE's comment in the early morning hours of March 2nd 2019, "if the neighbours don't like the noise they can move" shows a complete lack of respect for the residents of Burnaby.

Report compiled by Cpl. B. KERMER

Burnaby RCMP, NCO District 1, Community Response Team

Attachment 5

2019 September 05

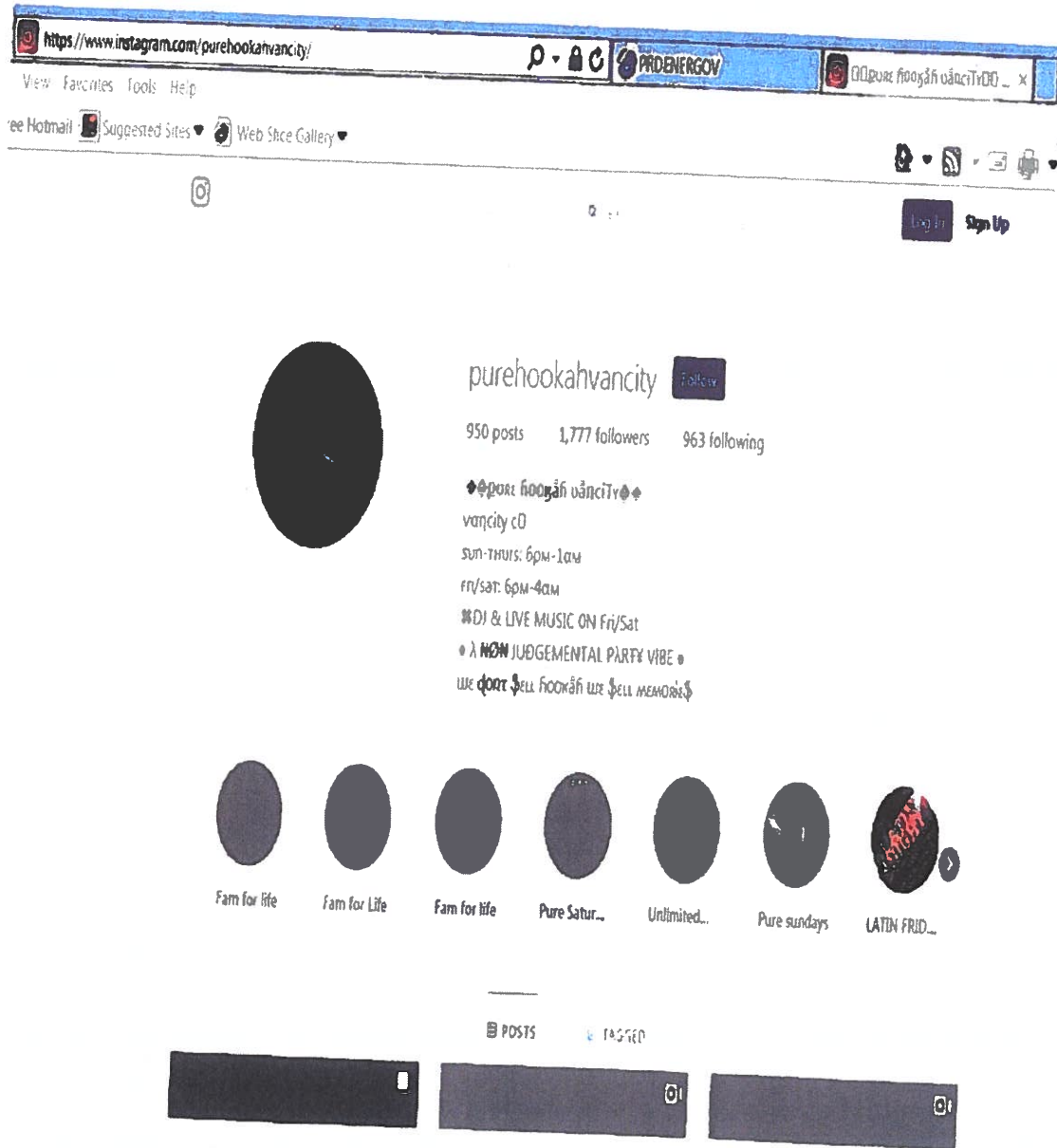
LICENCE OFFICE COMPLAINT LOG AND ACTIONS

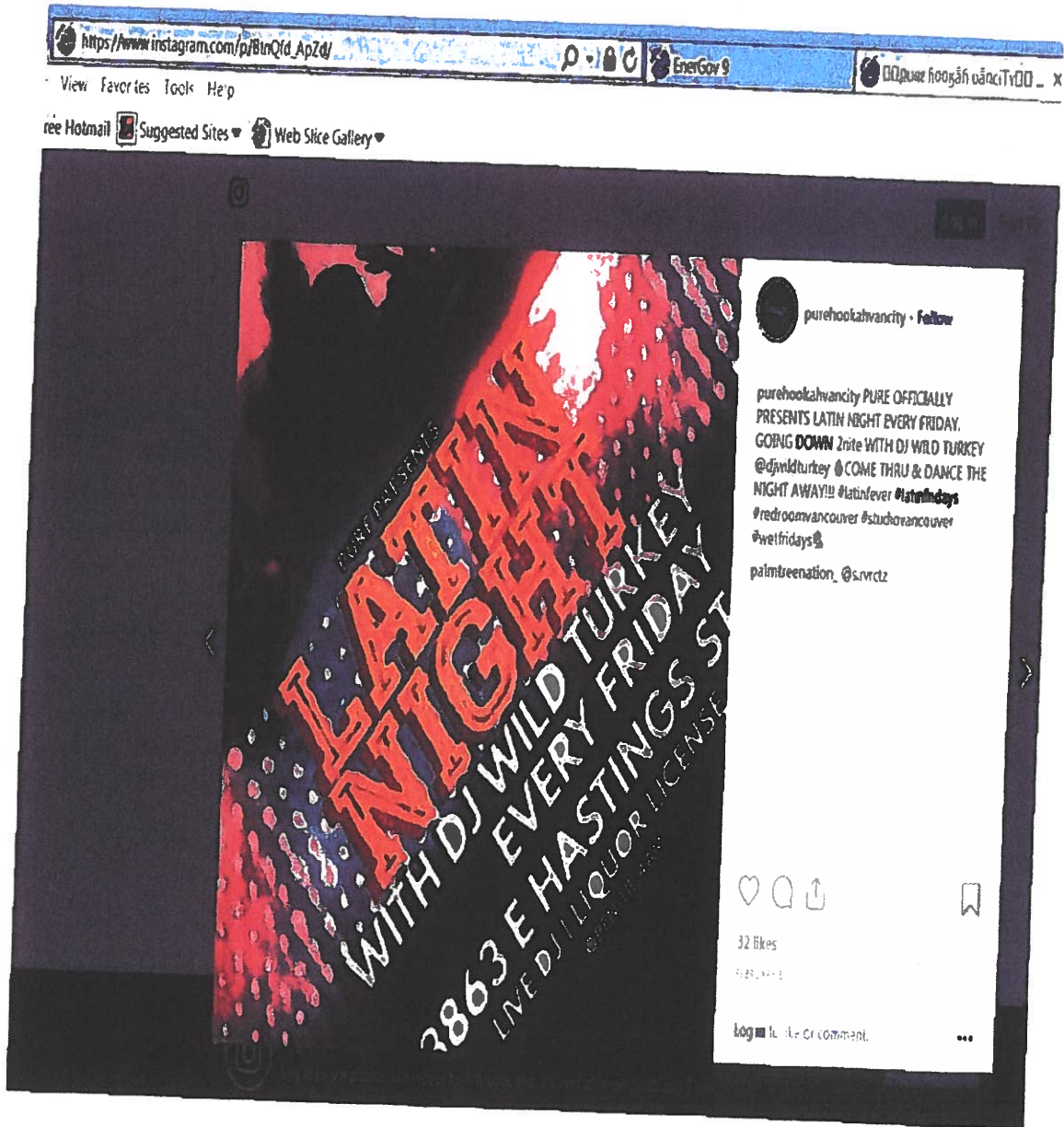
2019 Jan 07	First code case created based on RCMP calls for service to 'Pure Hookah'.
2019 Jan 08	Disturbance complainant received by Mayor's Office, information added to case.
2019 Feb 06	Second code case created on complaint of liquor service. <i>Not related to noise or disturbance.</i>
2019 March 14	Meeting at City Hall between Manbir Singh, Jaison Jose & Pakar Singh (representing Pure Hookah Lounge Inc.) and D. Layng & R. Grimm (Licence Office), V. Wong (Environmental Services), C. Bowcock & P. Talkkari (Burnaby Fire Dept), Cst. MacDermid & Cst. Tiganis (RCMP), and M. Castle (LCRB).
2019 Apr 03	Letter summarizing March 14 meeting with proprietors and copy of newly issued business licence (with hours of operation conditions), <u>mailed</u> to registered and records office of Pure Hookah Lounge Inc.
2019 Apr 03	Third code case created on complaint of business practices. <i>Not related to noise or disturbance.</i>
2019 Apr 11	Letter summarizing March 14 meeting with proprietors, and copy of newly issued business licence (with hours of operation conditions), <u>hand-delivered</u> to Pure Hookah Lounge Inc. at 3863 Hastings Street.
2019 May 06	Bylaw Violation Notice issued to Pure Hookah Lounge Inc. for violating hours of operation conditions on 2019 April 07.
2019 May 27	Fourth code case created on complaint that business operating on sidewalk. <i>Not related to noise or disturbance.</i>
2019 June 24	Fifth and sixth code cases created based on complaints that Pure Hookah Lounge operating both inside and outside of the business premises. Complainants confirmed they were disturbed by the business activities.
2019 July 03	Letter cancelling business licence hand-delivered by Chief Licence Inspector.

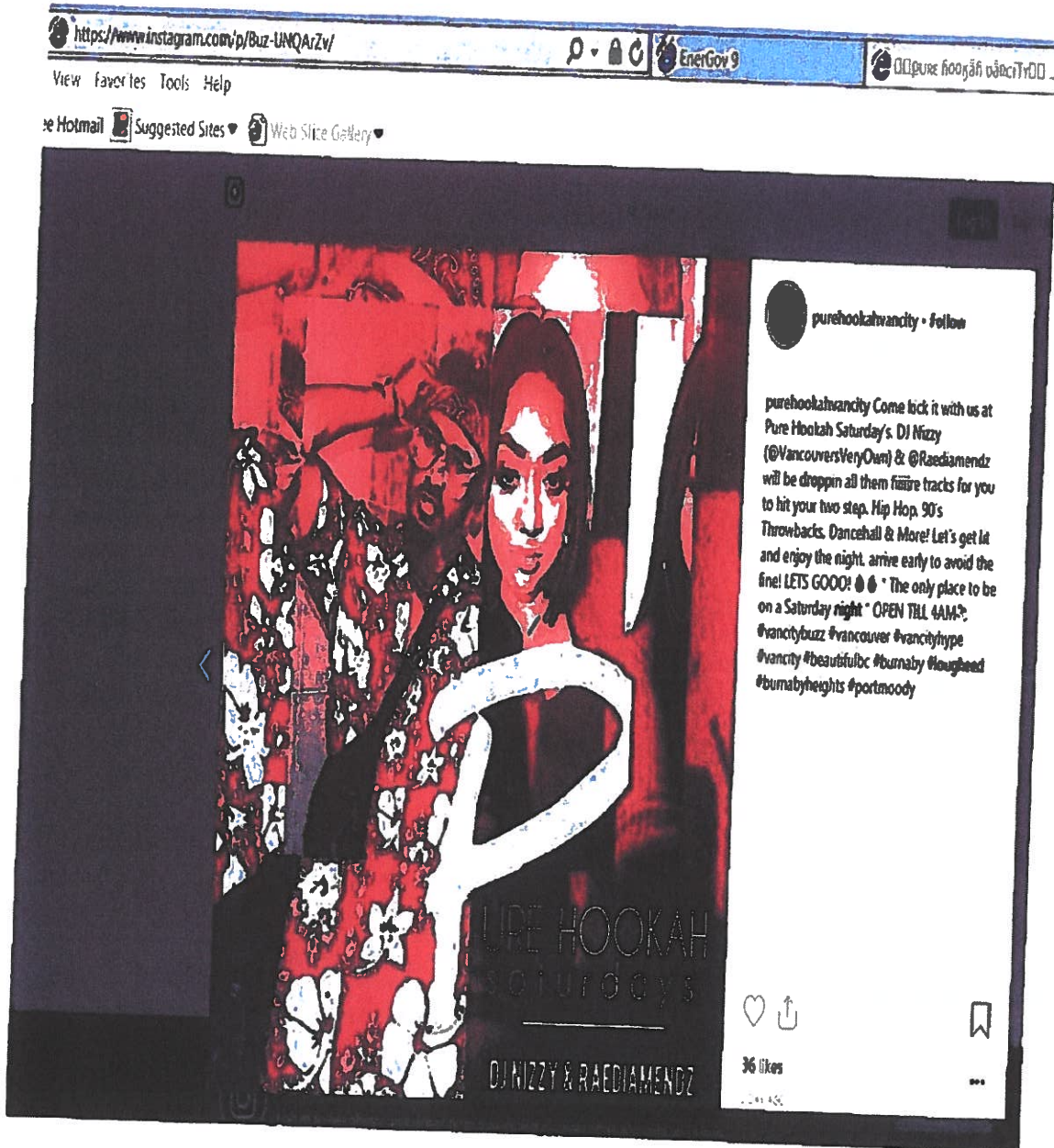
Prepared by:

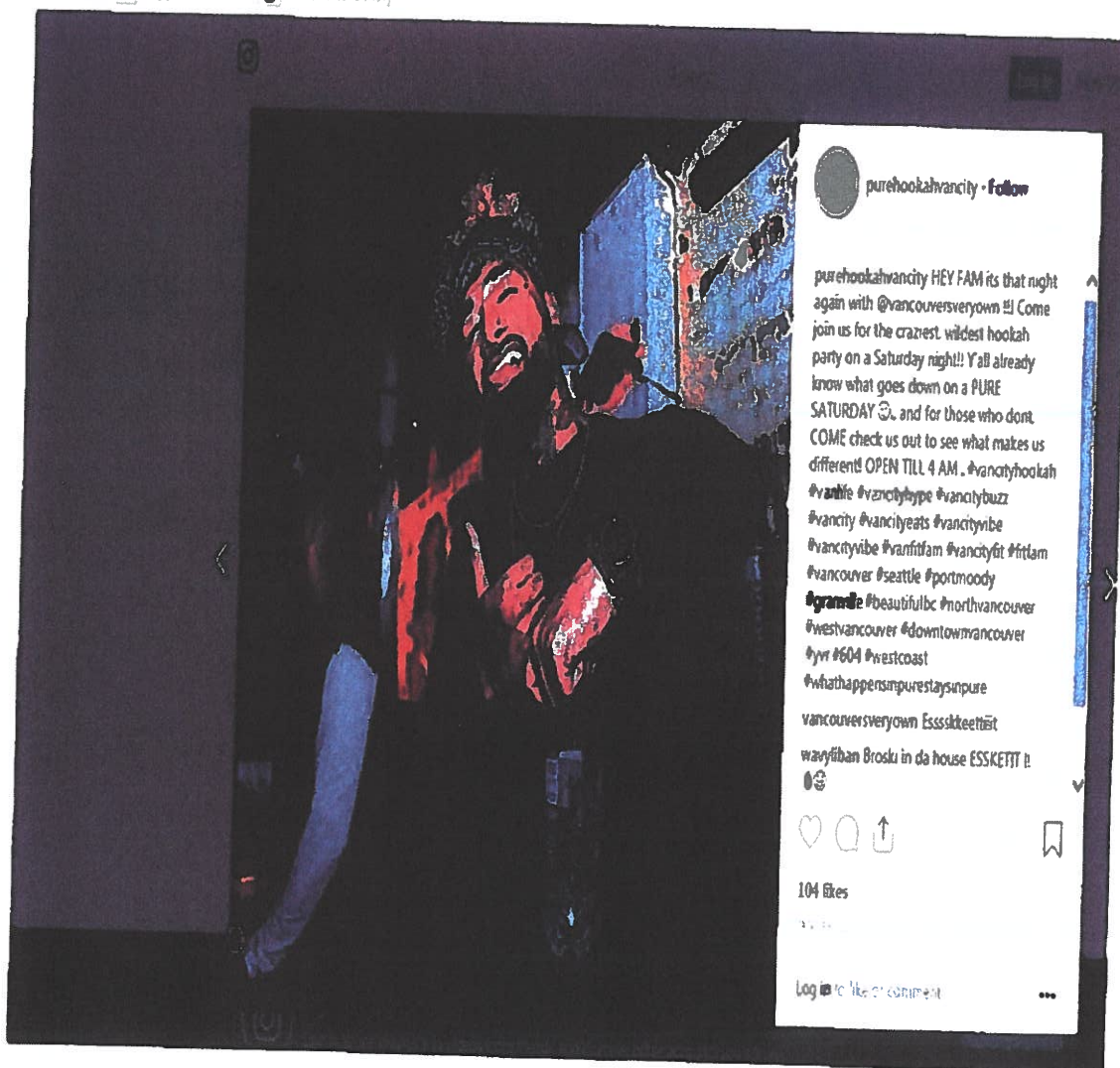
Robert Grimm
Property Use Coordinator
Public Safety & Community Services Department

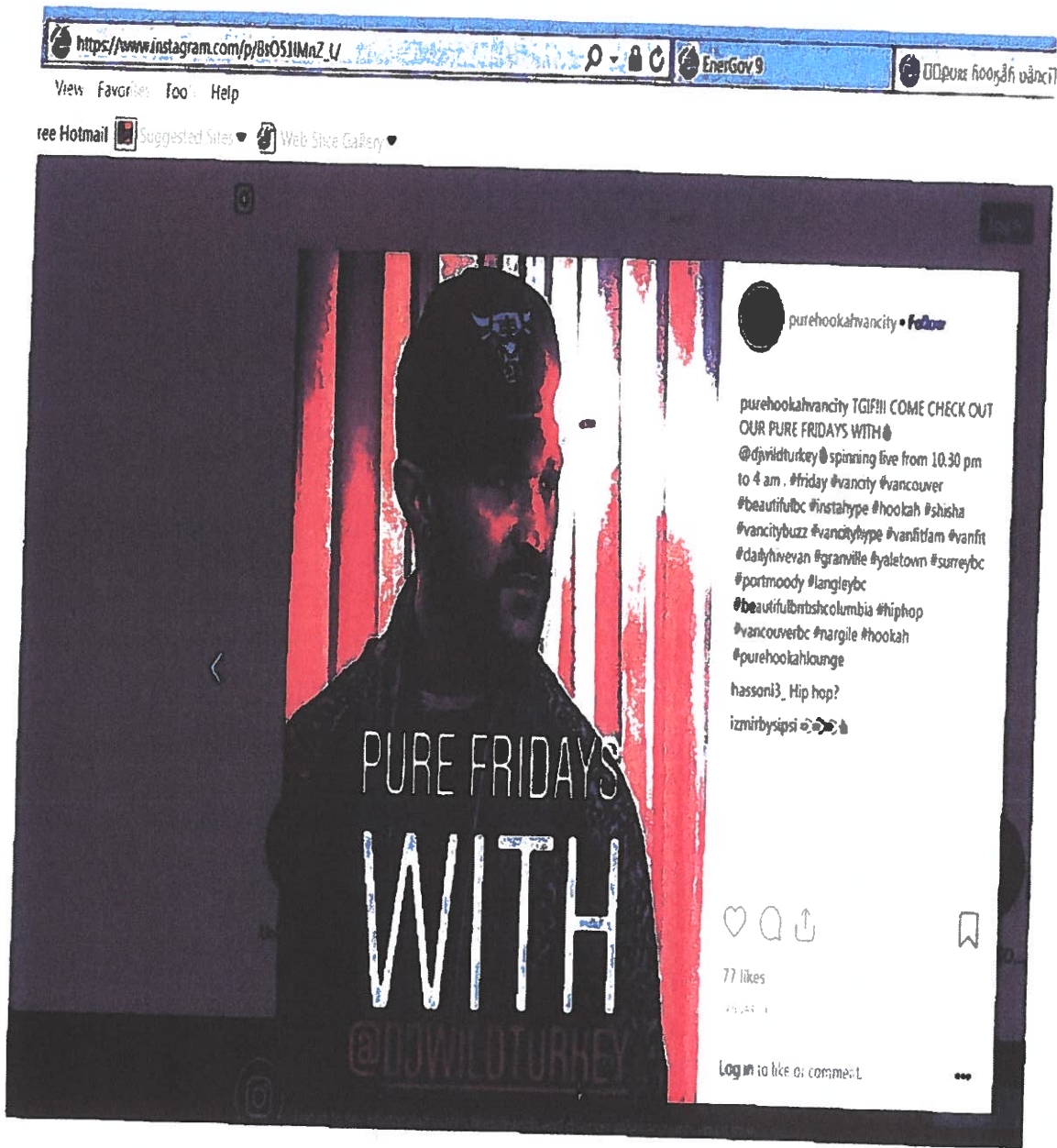
Attachment #6













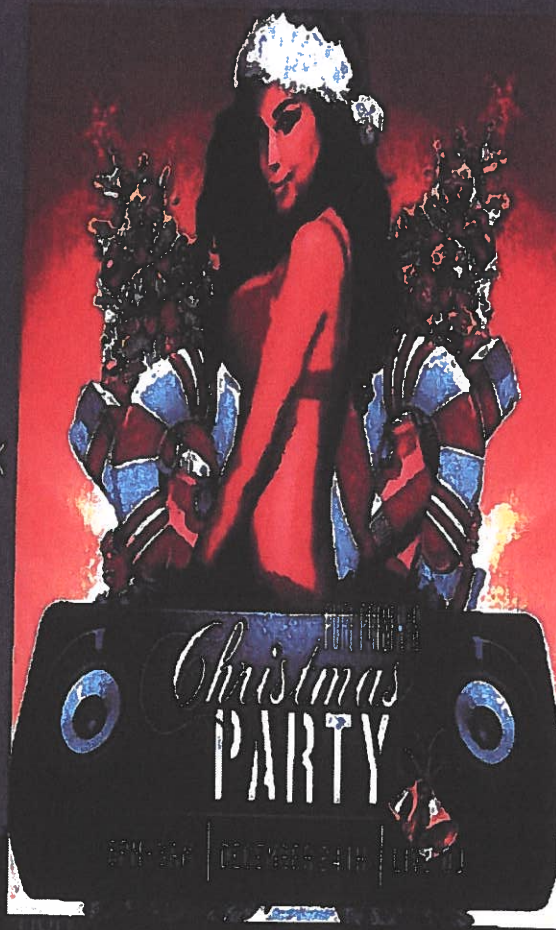




https://www.instagram.com/pjBnx_elUn26m/    EnerGov  pure hookah vancity

View Favorites Tools Help

ee Hotmail  Suggested Sites  Web Slice Gallery



purehookahvancity • Follow

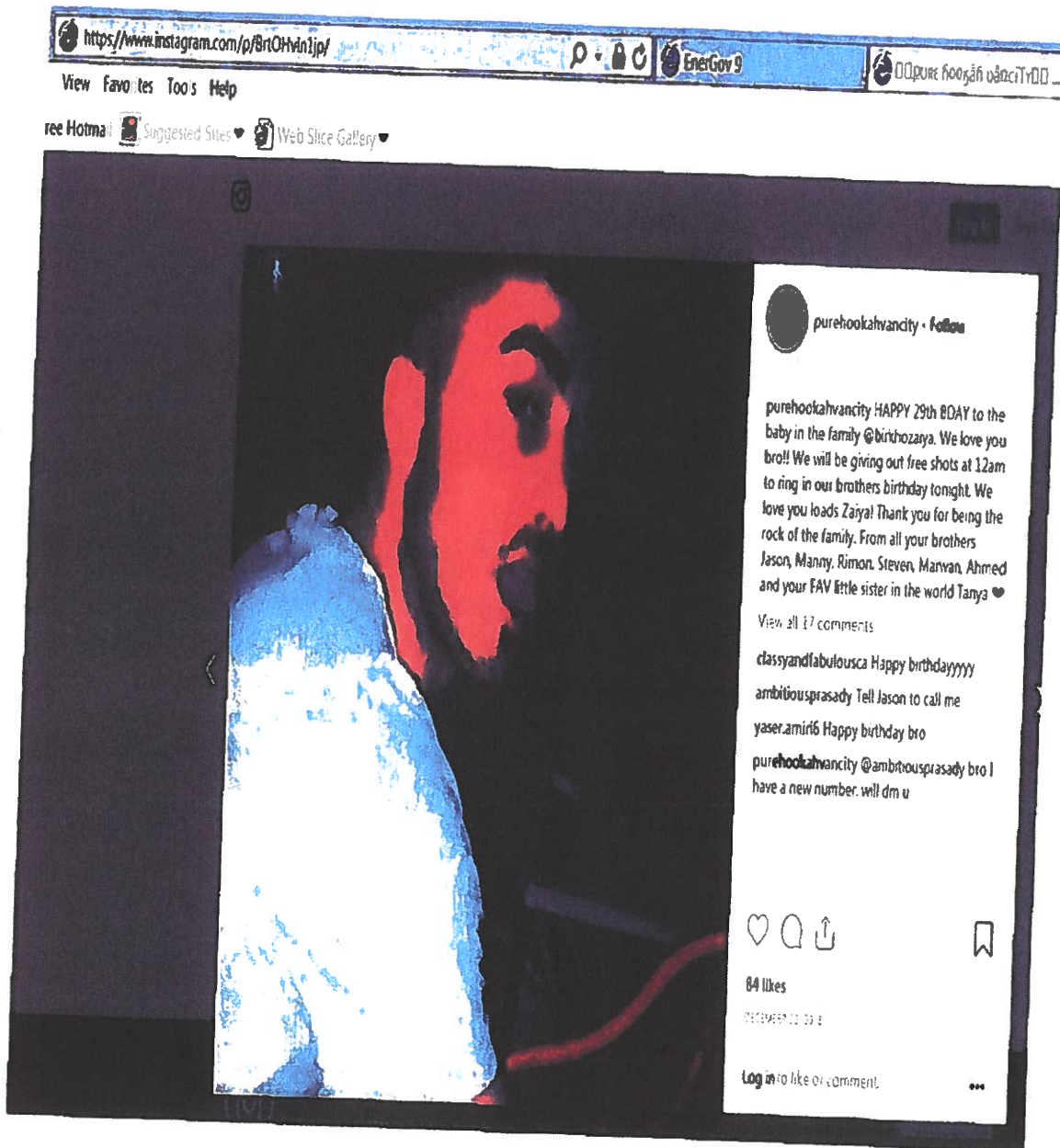
purehookahvancity @It's going down TONIGHT!! Pure will be hosting a RED & WHITE Christmas EVE PARTY today from 6PM-LATE!!! Dress to impress!! We will also be open tomorrow for business. Let's drink, smoke & be ugly!! MERRY XMAS FAM!!

#christmasere #christmas #happyholidays
 #vancitybuzz #dailyhivevan #shasha
 #vancitytype #vancityvibe #vancityeats
 #vancitywed #vancitynow #604
 #northburnaby #burnabyheights #hastings
 #eastvan #vancouver #coquitlam #surrey
 #westwoodplateau

58 likes

DISCUSS 14 2015

Log in to like or comment



<https://www.instagram.com/pj6f5eYcn7ov/>
9 - 100
EngGov 9
00pure hookah dance T100

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[Help](#)

[Free Hotmail](#)
[Suggested Sites](#)
[Web Slice Gallery](#)

PURE PRESENTS

\$15 ENTRY 6PM-4AM

NYE PARTY 2019

THE BUTTERFLY DRESS CODE IS:
1863 E HASTINGS STREET
SUITE 100, VANCOUVER, BC V6N 1C7

DEC 31

purehookahvancity · [Follow](#)

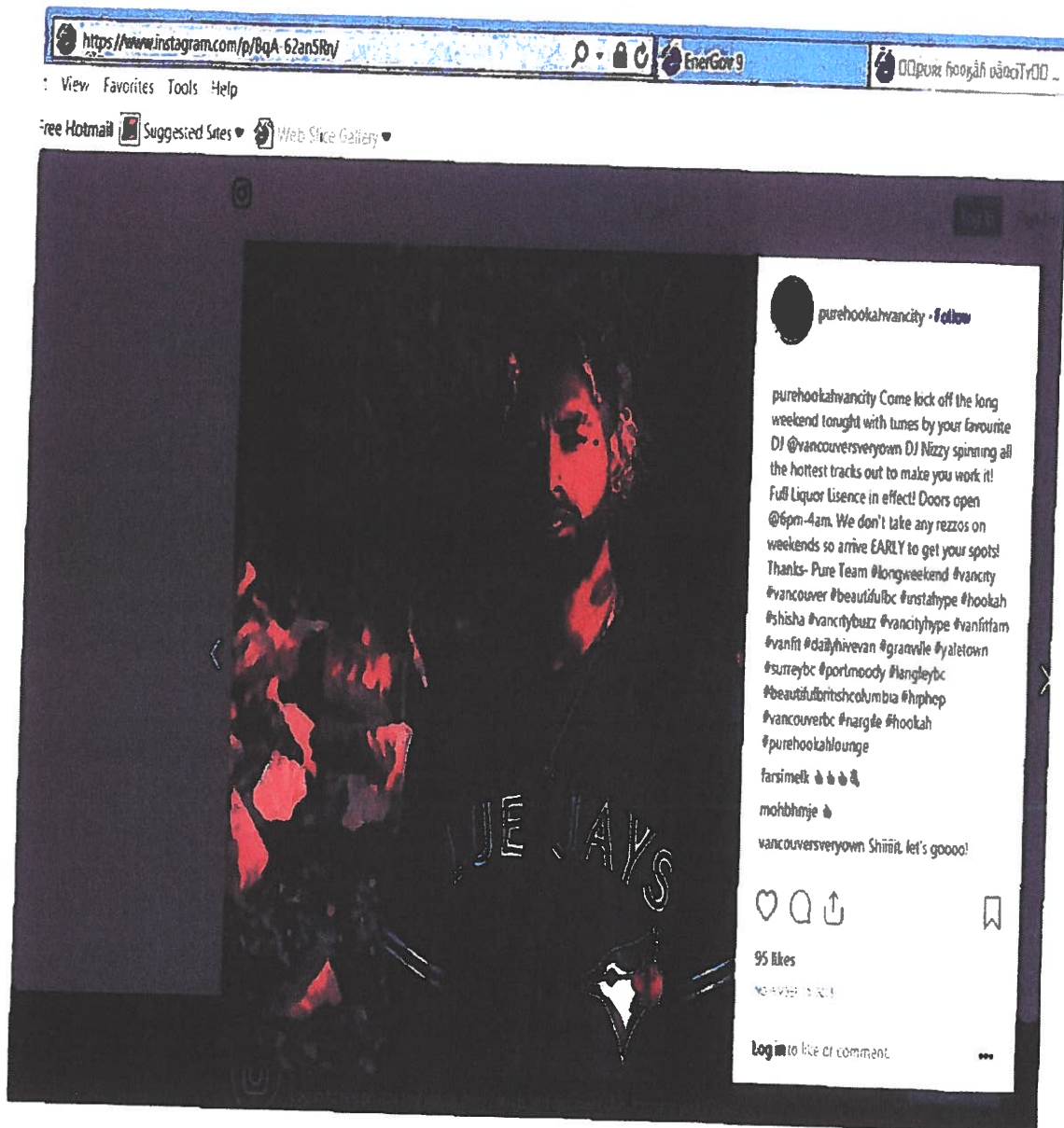
purehookahvancity & THE COUNTDOWN BEGINS!! Pure is honoured to present Our 2nd EPIC NYE Party of 2018!! Get your Tickets NOW!! Tickets are \$15, (\$40 at the door on night of) Get your tickets in store or DM us to reserve your tod! We will have a full liquor license & complimentary champagne for all our Pure Fam AND you will get 2 free drinks on the house! NO TICKET..NO ENTRY. Pls contact Tanya or Marvan for your tickets. Let's make this NYE ANOTHER one to remember!! Much Love - Pure Team

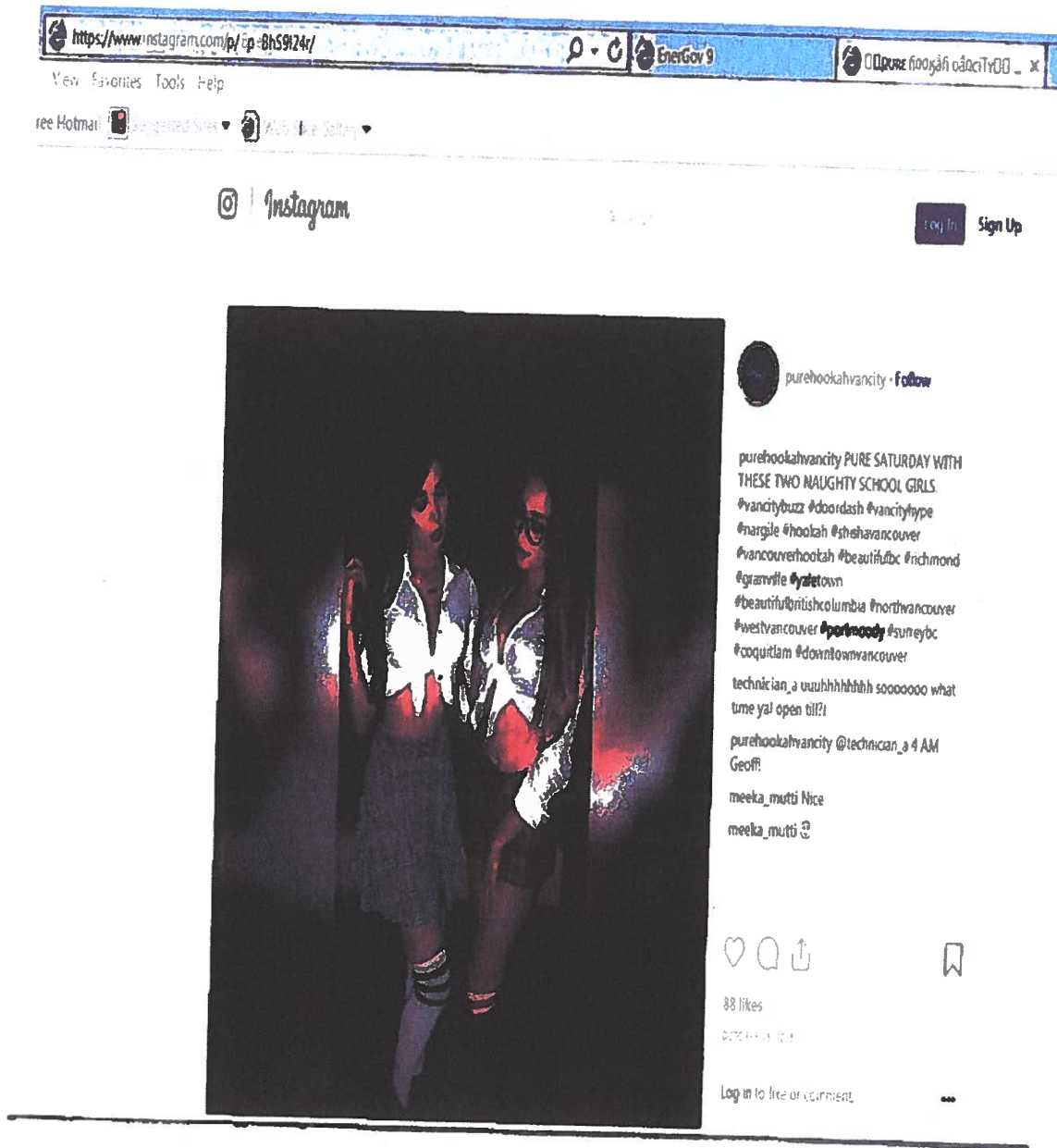
Date: MONDAY, DEC. 31, 2018
Time: 6PM-4AM
Dress Code: FORMAL
Bottle Service Available*

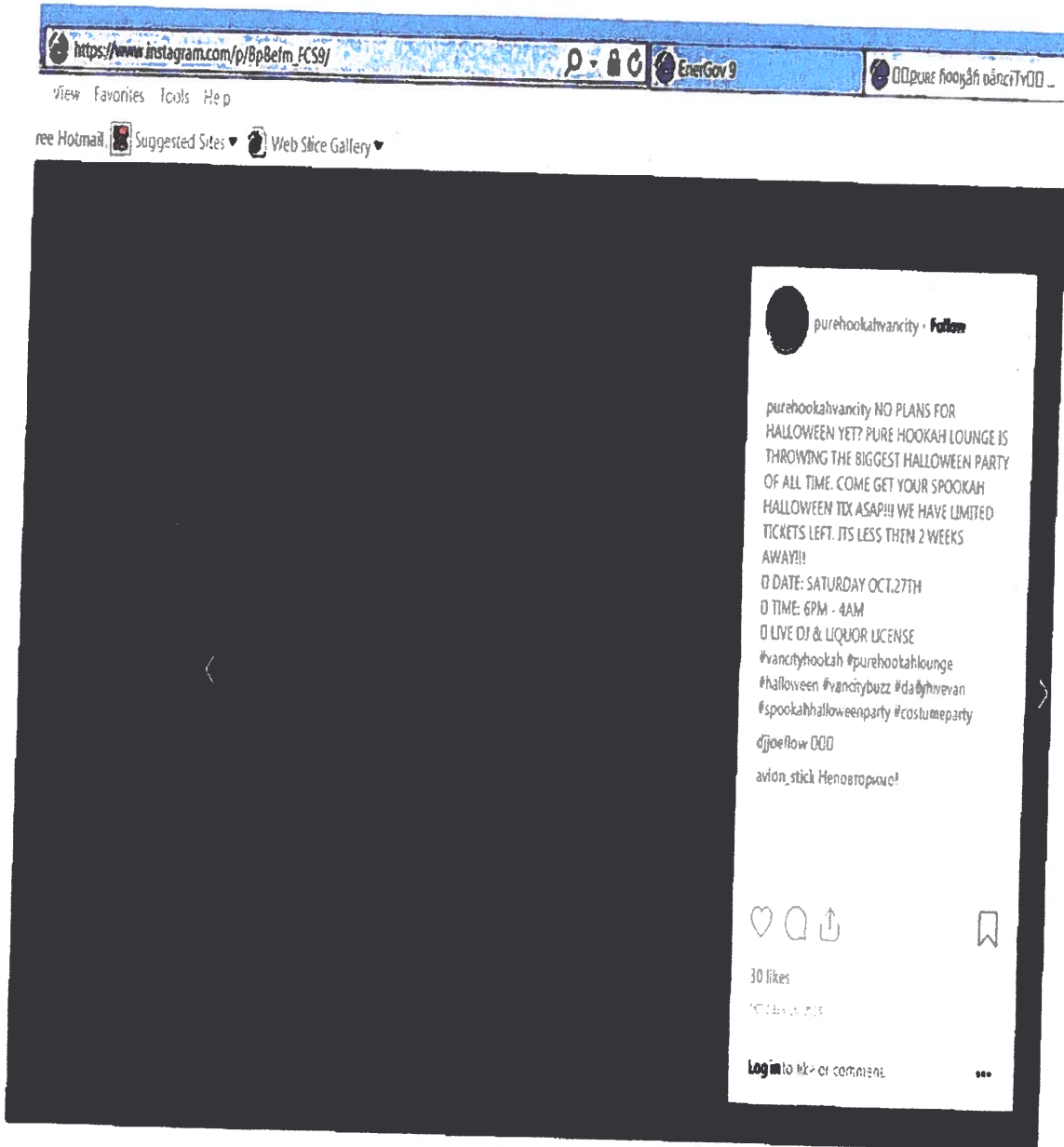
#vanchyhookah #nye #dec31
#bottleservice #daisydivan #newyears
#2019 #hookah #liquorlicense #dj #shots

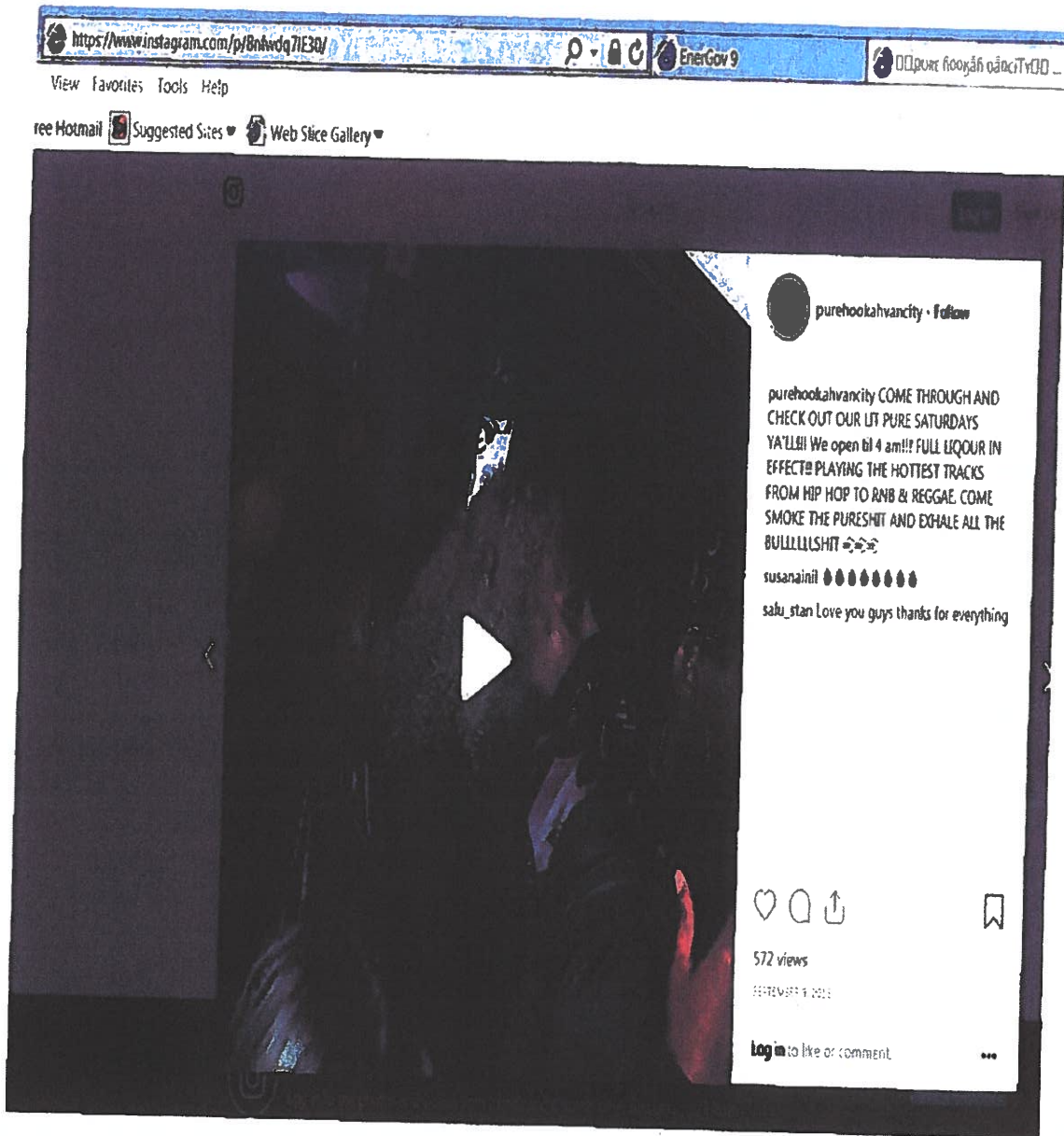
39 likes

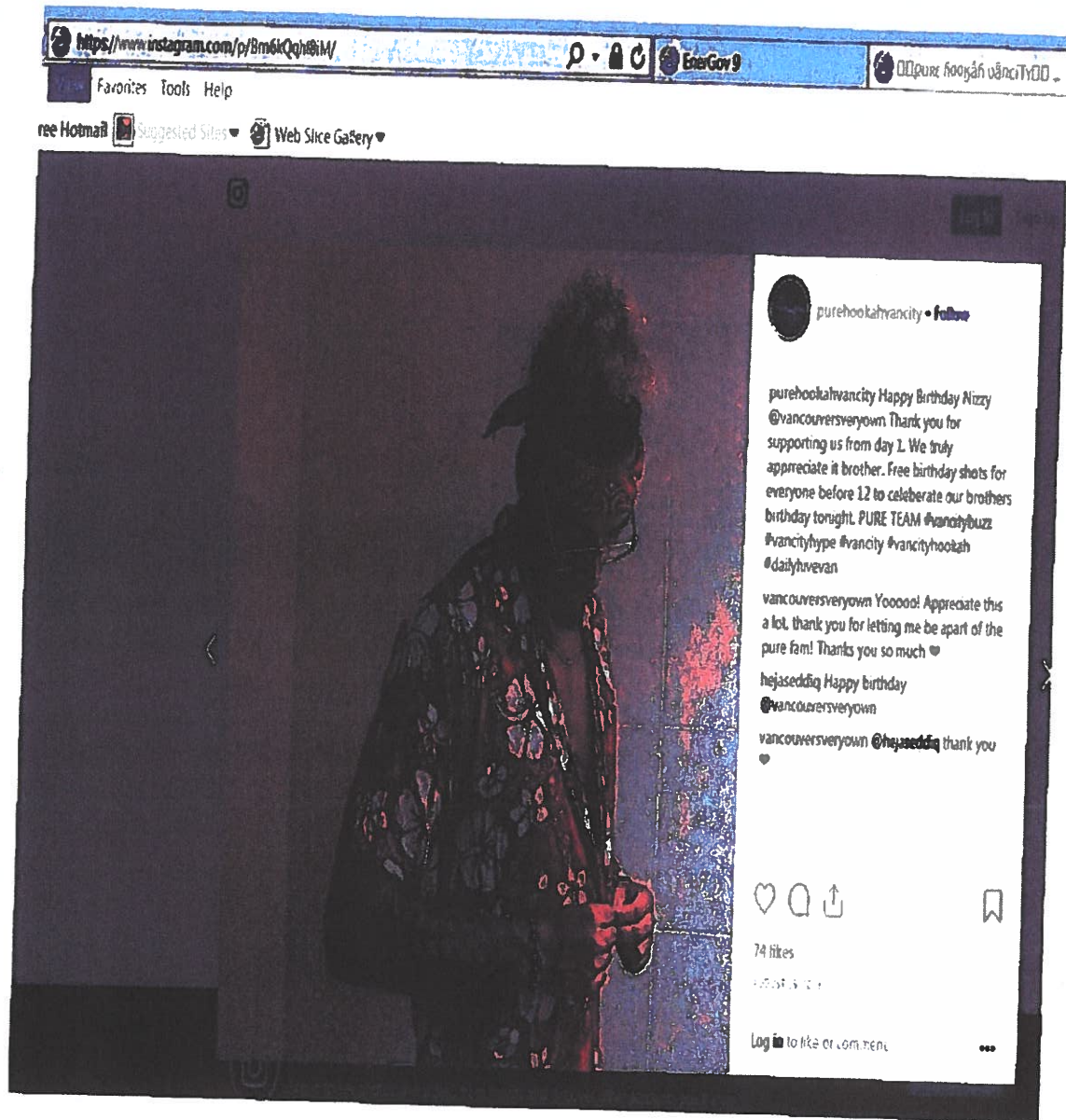
[Log in](#) to like or comment

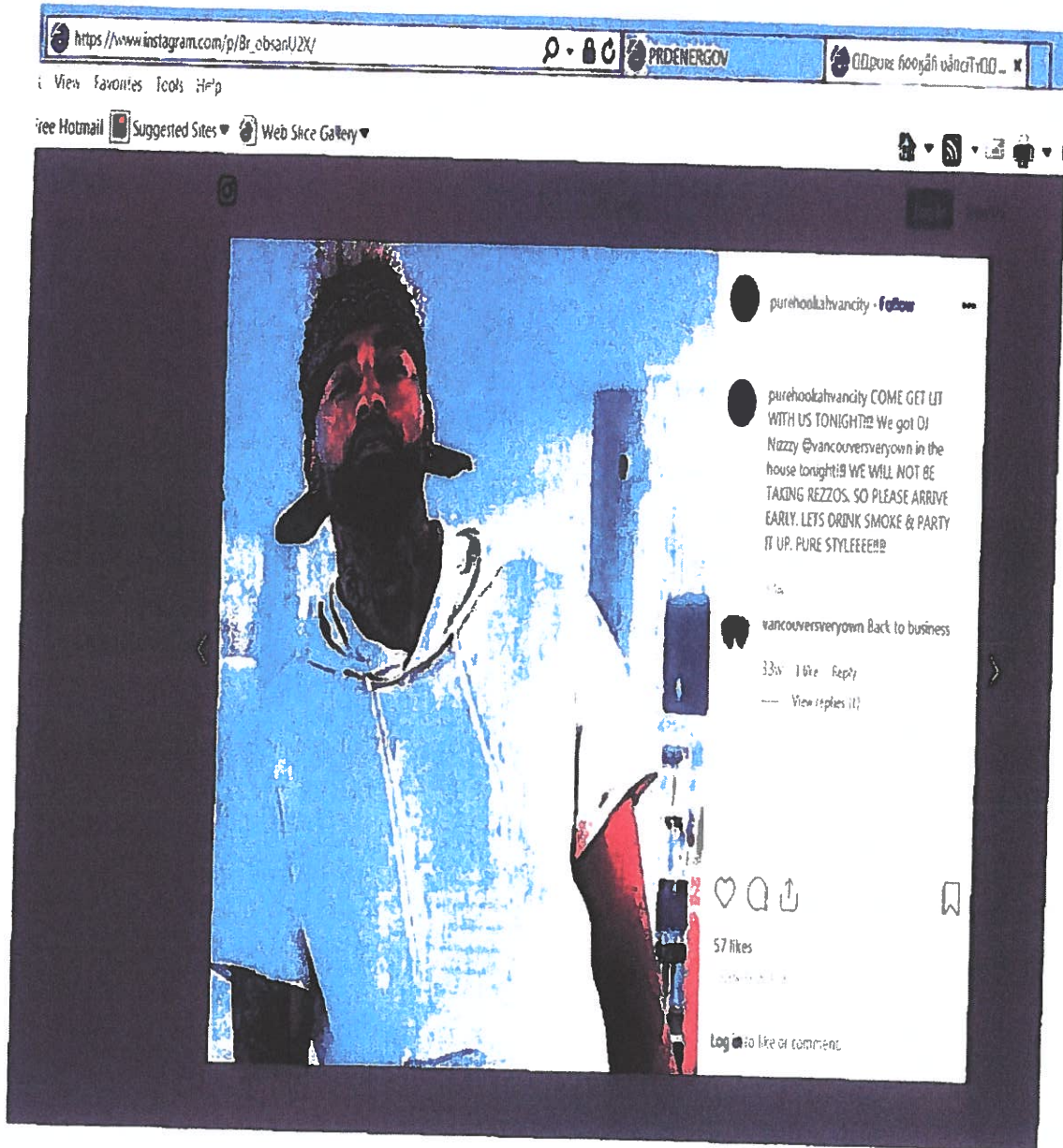














COPY

Engineering Department

2018 April 20

FILE: 43000-30

Reference: Noise-Comm

Kelly Chang
4735 Union Street
Burnaby, BC V5C 2Y5

Dear Owner(s):

SUBJECT: COMPLAINT(S) OF COMMERCIAL NOISE AT PURE HOOKAH LOUNGE, 3863 HASTINGS STREET, BURNABY BC

This letter is to advise you that our department is in receipt of complaint(s) regarding patrons yelling and causing a disturbance as well as loud music at the above noted address. The disturbance caused by patrons occurs at closing time of the subject business as late as 4am on Saturdays. The music disturbance occurred on the night of 2018 April 18.

For your information, the Burnaby Noise or Sound Abatement Bylaw 1979, Bylaw No. 7332, and Amendment Bylaw No. 1, 1995, Bylaw No. 10305 regulates the level of noise emission from industrial, commercial, institutional, agricultural and residential activities. Pertinent to the subject noise complaints, Sections 4, 6, and 19 of the Burnaby Noise or Sound Abatement Bylaw 1979, Amendment Bylaw No. 1, 1995 states:

Section 4 *No owner or occupier of real property shall, except as in this bylaw may be provided,*

- (a) *allow such real property to be used so that noise or sound emanates therefrom which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity;*
- (b) *allow such real property to be used so that noise or sound or continuous noise or continuous sound or non-continuous noise or non-continuous sound emanates therefrom that exceeds the dBAs authorized by this bylaw.*

Section 6 *No person shall in a Commercial District, Industrial District, Comprehensive Development District, or Agricultural District make or cause or permit to be made or caused continuous noise or continuous sound, the noise or sound level of which*

- (a) *between the hours of 7:00am and 10:00pm exceeds*
 - (i) *65 dBAs when measured pursuant to subsection 9(a); or*

Kelly Chang

Subject: Complaints of Noise at
4735 Union St

2018 May 14..... Page 2

COPY

- (ii) 60 dBAs when measured at any point on the boundary of or within a Residential District, Public and Institutional District or Multiple Family Residential District;
- (b) between the hours of 10:00pm and 7:00am exceeds
 - (i) 60 dBAs when measured pursuant to subsection 9(a); or
 - (ii) 55 dBAs when measured at any point on the boundary of or within a Residential District, public and Institutional District or Multiple Family Residential District.

We would require that efforts be immediately taken to abate the complaints of excessive noise due to noise producing activities at the subject address. Should further complaints be received and if they are proven justified, we will have no alternative other than to proceed with enforcement of the bylaw.

Should you require clarification of, or information regarding the above, please contact the undersigned at 604-294-7982.

Yours truly,

Vincent Wong, B. Sc. C.P.H.I.(C)
Environmental Services Officer

VW/nh

Cc – Pure Hookah Lounge, 3863 Hastings Street, Burnaby B.C. V5C 2Y5



Engineering Department

2018 May 14

FILE: 43000-30

Reference: Noise-Comm

Kelly Chang
4735 Union Street
Burnaby, BC V5C 2Y5

Dear Owner(s):

SUBJECT: COMPLAINT(S) OF COMMERCIAL NOISE AT PURE HOOKAH LOUNGE, 3863 HASTINGS STREET, BURNABY BC

This letter is to advise you that our department is in receipt of further complaint(s) regarding patrons yelling and causing a disturbance as well as loud music at the above noted address. A letter was sent to you outlining a similar type of complaints on 2018 April 20 (see attached) Since that time, the City has received complaints of noise on 2018 May 7 and May 14.

For your information, the Burnaby Noise or Sound Abatement Bylaw 1979, Bylaw No. 7332, and Amendment Bylaw No. 1, 1995, Bylaw No. 10305 regulates the level of noise emission from industrial, commercial, institutional, agricultural and residential activities. Pertinent to the subject noise complaints, Sections 4, 6, and 19 of the Burnaby Noise or Sound Abatement Bylaw 1979, Amendment Bylaw No. 1, 1995 states:

"Section 4 *No owner or occupier of real property shall, except as in this bylaw may be provided,*

- (a) *allow such real property to be used so that noise or sound emanates therefrom which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity;*
- (b) *allow such real property to be used so that noise or sound or continuous noise or continuous sound or non-continuous noise or non-continuous sound emanates therefrom that exceeds the dBAs authorized by this bylaw.*

Section 6 *No person shall in a Commercial District, Industrial District, Comprehensive Development District, or Agricultural District make or cause or permit to be made or caused continuous noise or continuous sound, the noise or sound level of which*

- (a) *between the hours of 7:00am and 10:00pm exceeds*
 - (i) *65 dBAs when measured pursuant to subsection 9(a); or*

Kelly Chang

Subject: Complaints of Noise at
3863 Hastings St

2018 May 14..... Page 2

~yellow~

- (d) 60 dBAs when measured at any point on the boundary of or within a Residential District, Public and Institutional District or Multiple Family Residential District;
- (b) between the hours of 10:00pm and 7:00am exceeds
 - (i) 60 dBAs when measured pursuant to subsection 9(a); or
 - (ii) 55 dBAs when measured at any point on the boundary of or within a Residential District, public and Institutional District or Multiple Family Residential District."

We would require that efforts be immediately taken to abate the complaints of excessive noise due to noise producing activities at the subject address. As the owner of the property, you are responsible for the level of noise generated. Should further complaints be received and if they are proven justified, we will have no alternative other than to proceed with enforcement of the bylaw which may include the issuance of bylaw tickets.

Should you require clarification of, or information regarding the above, please contact the undersigned at 604-294-7982.

Yours truly,



Vincent Wong, B. Sc. C.P.H.I.(C)
Environmental Services Officer

VW/nh

Copied: Pure Hookah Lounge, 3863 Hastings Street, Burnaby B.C. V5C 2Y5



City of
Burnaby

Engineering Department

2018 November 29

Attachment #9

FILE: 43000-30

Reference: Noise-Comm

Chang, Kelly M
4735 Union Street
Burnaby, BC V5C 2Y5

Dear Owner(s):

**SUBJECT: COMPLAINT(S) OF COMMERCIAL NOISE AT
3861 HASTINGS STREET (PURE HOOKAH LOUNGE), BURNABY BC**

This letter is to advise you that our department is in receipt of complaint(s) regarding loud music noise at the above noted address occurring at 11:10pm to 2:00am on 2018 Oct 29 which is disturbing the immediate community's rest, peace, enjoyment and quiet.

For your information, the Burnaby Noise or Sound Abatement Bylaw 1979, Bylaw No. 7332, and Amendment Bylaw No. 1, 1995, Bylaw No. 10305 regulates the level of noise emission from industrial, commercial, institutional, agricultural and residential activities. Pertinent to the subject noise complaints, Sections 4, 6, and 19 of the Burnaby Noise or Sound Abatement Bylaw 1979, Amendment Bylaw No. 1, 1995 states:

"Section 4 *No owner or occupier of real property shall, except as in this bylaw may be provided,*

- (a) *allow such real property to be used so that noise or sound emanates therefrom which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity;*
- (b) *allow such real property to be used so that noise or sound or continuous noise or continuous sound or non-continuous noise or non-continuous sound emanates therefrom that exceeds the dBAs authorized by this bylaw.*

Section 6 *No person shall in a Commercial District, Industrial District, Comprehensive Development District, or Agricultural District make or cause or permit to be made or caused continuous noise or continuous sound, the noise or sound level of which*

- (a) *between the hours of 7:00am and 10:00pm exceeds*
 - (i) *65 dBAs when measured pursuant to subsection 9(a); or*
 - (ii) *60 dBAs when measured at any point on the boundary of or within a Residential District, Public and Institutional District or Multiple Family Residential District;*

P:\ Clerk Typist\Environmental\2018\Noise - Commercial\Hastings St 3861 Commercial Noise.vw.docx

4949 Canada Way, Burnaby, BC V5G 1M2 ❖ Telephone 604-294-7460 Fax 604-294-7425 ❖ www.burnaby.ca

Chang, Kelly M

Subject: Complaints of Noise at

3861 Hastings St (Pure Hookah Lounge)

2018 November 29..... Page 2

(b) *between the hours of 10:00pm and 7:00am exceeds*

- (i) *60 dBA's when measured pursuant to subsection 9(a); or*
- (ii) *55 dBA's when measured at any point on the boundary of or within a Residential District, public and Institutional District or Multiple Family Residential District.*

We would require that efforts be immediately taken to abate the complaints of excessive noise due to noise producing activities at the subject address. Our records indicate previous complaints were received in June 2018. Please contact the business operator to see if any operational changes have taken place since that time and also remind him of the noise bylaw requirements. Should further complaints be received and if they are proven justified, we will have no alternative other than to proceed with enforcement of the bylaw which may include the issuance of a bylaw ticket.

Should you require clarification of, or information regarding the above, please contact the undersigned at 604-294-7982.

Yours truly,




Vincent Wong, B.Sc. C.P.H.I.(C)
Environmental Services Officer

VW/nh

Notice # **E001720**

ISSUE DATE: **2018/05/23**

PLU # **1151**

 **City of Burnaby**

BYLAW NOTICE

ISSUED TO (PERSON OR COMPANY) Kelly Chang	
ADDRESS (IF AVAILABLE) 4735 Union St Burnaby BC V5C 2Y5	
IT IS ALLEGED THAT YOU HAVE CONTRAVENED THE FOLLOWING PROVISIONS OF A CITY BYLAW:	
BYLAW NAME Noise or Sound Abatement	SECTION 4(a)
DESCRIPTION OF CONTRAVENTION owner/occupier allowing noise from property which disturbs neighbourhood	
CONTRAVENTION DATE (yyyy/mm/dd) 2018/05/19	CONTRAVENTION TIME 01:36am
LOCATION OF CONTRAVENTION 3863 Hastings Street Burnaby V5C 2H7	
ASSOCIATED TICKETS n/a	
ISSUED BY (Print and sign name) CENSING CHANG	
ID # 241	
PAYMENT	ON OR BEFORE (yyyy/mm/dd) 2018/06/14
	\$150.00
	AFTER (yyyy/mm/dd) 2018/06/14
	\$200.00

To pay the penalty shown, choose one of the payment options on the back of the notice.

If you don't agree with this notice, you can dispute it by following the "Adjudication Request" instructions on the back of this notice.

You must make your Adjudication Request by 2018/06/14

If your dispute is successful the notice will be set aside; if your dispute is unsuccessful, you must pay the full penalty, and a \$25 administrative fee. Disputes are adjudicated by an Adjudicator under the Burnaby Bylaw Notice Enforcement Bylaw.

ADJUDICATOR'S COPY

Notice # **E001720**

Notice # **ED01721**

ISSUE DATE: **2018/05/23**

PLU # **1151**

City of Burnaby

BYLAW NOTICE

ISSUED TO (PERSON OR COMPANY)
Pure Hookah Lounge Inc

ADDRESS (IF AVAILABLE)
3863 Hastings St Burnaby BC V5C 2H7

IT IS ALLEGED THAT YOU HAVE CONTRAVENED THE FOLLOWING PROVISIONS OF A CITY BYLAW:

BYLAW NAME
Noise or Sound Abatement

SECTION
4(a)

DESCRIPTION OF CONTRAVENTION
owner/occupier allowing noise from property which disturbs neighbourhood

CONTRAVENTION DATE
2018/05/19

CONTRAVENTION TIME
01:36am

LOCATION OF CONTRAVENTION
3863 Hastings St Burnaby BC V5C 2H7

ASSOCIATED TICKETS
n/a

ISSUED BY (Print and sign name)
C. Enslin

ID #
241

PAYMENT	ON OR BEFORE	AFTER
	2018/06/14	\$150.00
	2018/06/14	\$200.00

To pay the penalty shown, choose one of the payment options on the back of the notice.

If you don't agree with this notice, you can dispute it by following the "Adjudication Request" instructions on the back of this notice.

You must make your Adjudication Request by **2018/06/14**

If your dispute is successful the notice will be set aside; if your dispute is unsuccessful, you must pay the full penalty, and a \$25 administrative fee. Disputes are adjudicated by an Adjudicator under the Burnaby Bylaw Notice Enforcement Bylaw.

ADJUDICATOR'S COPY

Notice # **ED01721**



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200879
ISSUED TO: PURE HOOKAH LOUNGE INC
ADDRESS: 18936 55TH AVE SURREY, BRITISH COLUMBIA V3S 6W7
BYLAW NAME: BBY BUSINESS LICENCE BYLAW
DESCRIPTION OF CONTRAVENTION: L2204-FAIL TO COMPLY WITH T&C
SUBSECTION AND DESCRIPTION:
 Operating not in accordance with conditions in respect to the business licence - operating outside of permitted business hours.
CONTRAVENTION DATE AND TIME: April 7, 2019 1:26 am
CONTRAVENTION LOCATION: 3863 HASTINGS ST
ASSOCIATED TICKETS:
ISSUING OFFICER: 00521-GRIMM

PAYMENT:

IF PAID ON OR BEFORE:	May 28, 2019	400.00
IF PAID AFTER:	May 28, 2019	500.00

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets
 Mailed or delivered to: City of Burnaby - Tax Office
 Violation Payment
 4949 Canada Way
 Burnaby, BC V5G 1M2

- *Bylaw Violation Notice Number must appear on Cheque or Money Order
- Cheque or Money Order payable to City of Burnaby
- Do not send cash through the mail
- A dishonoured cheque is not payment. We charge an administration fee for dishonoured cheques
- Postmarks not accepted as date of payment

Pay in Person: Cash, Cheque, Visa, MasterCard, American Express, Interac
 - Monday to Friday 8:00am to 4:45pm, Thursday 8:00am to 8:00pm
 - After hours and statutory holidays - put cheques in City Hall mail slot

Option 2 - DISPUTE**ADJUDICATION REQUEST**

This form must be completed and received by the City of Burnaby by May 28, 2019. It can be submitted by one of the following options:

Dispute by Web: www.burnaby.ca/disputetickets
 Emailed to: bylaws@burnaby.ca
 Mailed or delivered to: City of Burnaby - Office of the City Clerk
 4949 Canada Way
 Burnaby, BC V5G 1M2
 Faxed to: 604-570-3661

Bylaw Notice #	L200879
Issue Date	May 06, 2019
Your Name	
Your Address	
Daytime Phone #	
Evening Phone #	
Email Address	
Signature	
Reason for Dispute	



DAVISON LAW GROUP

30 May 2019

RECEIVED IN
LICENCE.....

JUN 03 2019

REPLY TO: Dale R. North
Direct Line: 604.629.9182
Facsimile 604.629.7810
Email: drnorth@dlg-law.ca

Our File: 2105-001

BY FAX
604-294-7163

City of Burnaby
Public Safety and Community Services Department
Licence Office
4949 Canada Way
Burnaby, BC V5G 1M2

COPY

Attention: Robert Grimm, Property Use Coordinator
Dan Layng, Chief Licence Inspector

RE: Pure Hookah Lounge Inc.

We are counsel for Pure Hookah Lounge Inc. ("Pure Hookah") and are writing with respect to recent events between Pure Hookah and the City of Burnaby (the "City") regarding operation of the hookah lounge at 3863 Hastings Street, Burnaby, BC (the "Business").

As you know, since 2017, Pure Hookah has operated the Business under a valid business licence from the City (the "Licence") pursuant to the *Burnaby Business Licence Bylaw 2017* (the "Licence Bylaw"). The Licence was granted by the City to Pure Hookah under the restaurant category, as the City did not have a separate category for hookah lounges. The Licence was renewed by the City each year since with the same condition – for 2019, the Licence was renewed on February 14, 2019, accordingly.

Since the Business opened, Pure Hookah has operated the hookah lounge seven days a week from 6:00 p.m. to 1:00 a.m. except for Fridays and Saturdays when its hours are extended to 3:00 a.m. The Business is located in a mixed commercial/residential building, with the hookah lounge and another business on the ground floor and eight homes on the two floors above. The Business provides its visitors with a space to meet and use hookahs, a water-pipe used for smoking herbal fruits molasses (non-tobacco). Throughout its operations, the Business has operated without issue and in compliance with applicable federal, provincial, and municipal laws. Pure Hookah has always worked with the City and other authorities, its neighbours and the public to take proper precautions to ensure this. Pure Hookah and the Business have a good history with the City and are valuable members of its business community, paying taxes and hiring locals as employees.

However, despite this, we have been advised by Pure Hookah that on April 3, 2019, the City decided to amend the 2019 Licence and impose a new condition on the Business as follows: "Hours of operation limited to between 7:00am and 11:00pm only". We enclose for your reference copies of the City's April 3rd letter advising our client of this amendment and the 2019 Licence before and after the amendment.

Suite 1650 - 1130 West Pender Street, Vancouver, British Columbia, V6E 4A4 | www.dlg-law.ca
Ph: 604.629.7808 | Fax: 604.629.7810 | Toll Free: 1.877.208.5048 | Toll Free Fax: 1.877.365.3421

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We understand that the City amended the 2019 Licence following a series of alleged but unproven noise complaints about the Business. In about mid-2018, the RCMP began occasionally attending the Business in response to noise complaints about its music. Pure Hookah was surprised, as the music was not loud to begin with and had not changed over time but cooperated by lowering the music each time as required. Pure Hookah also took the precaution of reviewing the City's *Burnaby Noise or Abatement Bylaw Number 7332* (the "Noise Bylaw") and obtaining a noise decibel tester to regularly check the Business' operations were within the allowable ranges, which they were. However, the cycle of complaints continued although, throughout, only one ticket was issued to Pure Hookah for the Business being in violation of the Noise Bylaw. That ticket was issued on or about 19 May 2018. Pure Hookah was certain that the ticket was wrongfully issued – that they were not above the noise limits in the Noise Bylaw – but they felt pressured to pay it and did not dispute it as a result.

Then, on February 28, 2019, the City wrote to Pure Hookah requesting its directors meet with the City's Licence Office to discuss the alleged complaints. The parties eventually met on March 14, 2019, where the City, through its property manager Robert Graham, advised Pure Hookah that they wanted to fix the situation going forward for all involved. Pure Hookah's representatives told the City that they were within the limits of the Noise Bylaw and have done tests to verify this. Pure Hookah offered that even if they are below the limits, if the City is concerned, Pure Hookah would hire an acoustic sound engineer to verify that their music is below the limits in the Noise Bylaw. Pure Hookah also offered to install a second door, if that would alleviate the City's concerns. Pure Hookah wanted to work with the City and believed that was why they were there. The City's legal counsel then said that the purpose of the meeting was to discuss past events of infractions of the Noise Bylaw and not about how business would be conducted in the future.

The City said the noise wasn't the issue, the issue was there had been too many complaints to the RCMP and it had to respond. Pure Hookah was surprised and protested, given there was no noise issue; however, on April 3rd the City confirmed its decision by amending the Licence to restrict the Business' hours as described above, noting that if Pure Hookah did not comply the Licence would be suspended or cancelled and the City would issue bylaw tickets under sections 7 and 11 of the Licence Bylaw.

There are a number of problems with the City's decision to amend the Licence and impose a condition restricting the Business' hours of operation.

First, Pure Hookah flatly, absolutely, and unequivocally denies that the noise from the Business has violated the Noise Bylaw or any other laws for same. The Noise Bylaw states that noise in a commercial district between 7:00 a.m. and 10:00 p.m. must not exceed 65 dBAs at the property line and 60 dBAs in the district and between 10:00 p.m. to 7:00 a.m. must not exceed 60 dBAs at the property line and 55 dBAs in the district (section 6). As Pure Hookah has already explained to the City at the March 2019 meeting, they tested the Business several times and discovered that its noise levels were, at the loudest, 40 dBAs inside the property and 25 dBAs outside. These are well below the limits in the Noise Bylaw and the City agreed. Pure Hookah cannot be held responsible for the sensitivities of its neighbours or the public to noise below that which is allowed by law.

Second, despite the alleged complaints, the City has no evidence that Pure Hookah has violated the Noise Bylaw and, in fact, has evidence that directly contradicts this. There are no legitimate complaints or incidents regarding noise at the Business. If the City or someone else has evidence of a noise issue at the Business, such evidence has not been provided to Pure Hookah. Pure Hookah has been a good neighbor and takes care to operate the Business in a manner that is compliant with all of the City's bylaws, including those concerning noise.

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For the City to conclude that Pure Hookah has allowed the Business to violate some noise requirement such to require a change to its Licence, they must have been found guilty by a Court or similar authority of breaching the applicable law. A mere allegation that a party is violating a law is not enough. For example, if a violation of the Noise Bylaw is alleged, then Pure Hookah must be ticketed, the ticket adjudicated, and the tickets found valid and enforceable for the City to conclude this wrongful activity has occurred. No such decisions have been made against Pure Hookah and Pure Hookah has not been ticketed by the City at all despite for noise even with the supposed allegations against it. The City's steps to remedy such wrongful activity is therefore premature.

Third, for the City to make a decision regarding the Licence on the basis of alleged noise issue without providing evidence that Pure Hookah has been found in violation of a law for same and allowing Pure Hookah a proper opportunity to respond is not only dishonest, but against the principles of natural justice and procedural fairness. The City, as a statutory decision-maker, has a duty to act fairly and properly under the regime in which it operates (*Baker v. Canada (Minister of Citizenship and Immigration)* (1999), 1999 CanLII 699 (SCC) 174 D.L.R. (4th) 1993, paras 20-28). If the City operates otherwise, its decision is invalid and can be overturned. The City has rules and procedures regarding licensing and bylaw infringement, and it should follow them. The City cannot ignore these rules simply because there is extra time or effort involved, nor can it circumvent them by making it difficult for a business to operate otherwise. The City should also not be bending to pressure by another authority like the RCMP – it should only take action when a claim has been substantiated, which is not the case here.

The restriction imposed on the Business by the City is also unreasonable and arbitrary. As stated previously, the complaints against the Business have not been proven. The breakdown of the noise complaints in the City's April 3rd letter do not justify the particular condition imposed – a closure of the Business between 11:01 p.m. and 6:59 a.m. – as there are very few complaint calls outside of 11:00 p.m. and 12:00 a.m. and about the same number of calls past 12:00 a.m. as before 11:00 p.m. but the City has not forced the business to close at, say, 10:00 p.m. A license inspector should only impose conditions “in appropriate circumstances” – meaning circumstances where it is just and reasonable that the inspector receive assurances that concerns they have prior to granting the licence otherwise will be addressed by the proposed licensee (*Francis (Sisters Icee's Hemp B.C.) v. Vancouver (City)*, 1999 CanLII 5571, para 26). Imposing a condition on a license or permit that is arbitrary or lacking a “real-world justification” is not only inappropriate but “unfair” and subject to review by the appropriate authority (*Seaspan Ferries Corporation v. British Columbia Ferry Services Inc.*, 2013 BCCA 55, at para 131).

We note that under section 60 of the *Community Charter*, S.B.C. 2003, ch 26, that an application for a business licence in any way may be refused, but “must not be unreasonably refused.” Whether something is unreasonable depends on the particular circumstances (*Canada (Citizenship and Immigration) v. Khosa*, [2009] 1 SCR 339). Decisions of a municipal council and staff have been set aside by the Court before for being unreasonable. In *338186 BC Ltd. v. City of Vancouver*, 2011 BCSC 336, the Court set aside a decision of Council on the grounds that the company's application for a conversion permit was unreasonably refused. In setting aside that decision, the Court found there was evidence that members of Council acted “unreasonably and arbitrarily, and without the degree of fairness, and impartiality required of a municipal government” (para 85).

Allowing the new condition to remain on the Licence would not only be against the principles discussed, but unjust in the circumstances. Pure Hookah has gone to great lengths to cooperate with the City, the and others to ensure that its Business adheres with all applicable laws. In particular, since the City's decision to amend its Licence, it has undertaken further investigations into the complaints and more precautions against future complaints. Pure Hookah learned from its landlord, Kelly Chang, that it was a neighbor in

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the building upstairs that made the previous complaints against the Business and has spoken to that neighbor about the complaints and resolved them, with the neighbor apologizing and confirming no further complaints will be made. The landlord has also spoken to the other building's tenants and reached an agreement with them and Pure Hookah that any alleged noise issues have been resolved. We enclose a letter from the landlord confirming this. Given that the nearest other residential building is approximately 280 feet away from the Business, the problem (to the extent that there was a legitimate problem) has been resolved.

Further, the Business brings greater diversity to the City and performs an important cultural function for its community. The Business allows the use of hookahs, which our client informs us is an important part of Indian and Middle Eastern culture as well as the Muslim religion. Many customers of the Business are from these communities and are living in or visiting Burnaby for business, family, school etc. and attend hookah lounges to socialize, acclimate and meet others with similar religious and cultural backgrounds. Those individuals who are Muslim use hookahs as part of their practice of that religion – for example, hookahs are used to relax and focus after prayer, especially during Ramadan where many customers come to the Business in the evening just after they have fasted for the day as part of the daily ritual associated with this month. Our client can only surmise that given the Business' noise was well below the limits perhaps there is some ulterior motive to the complaints and related actions – perhaps a racial or religion element? Regardless, for a City that has an explicit Multicultural Policy (online here: <https://www.burnaby.ca/Assets/city+services/planning/Multicultural+Policy.pdf>), it appears that on all matters regarding the Business, the City has put little effort into protecting diversification in its community.

We are also informed by our client that most of the Business' customers come in after 11:00 p.m. and the Business is busiest late at night. This is not surprising especially during Ramadan, as the fast is broken at sunset with *iftar*, the evening meal, as is traditionally followed with hookahs. Often this occurs at around 11:00 pm, so if the Business is made to close at that time, it will prevent numerous people from joining in this traditional cultural/religious activity. To force the Business to operate only until 11:00 p.m. would cause the Business to lose most of its customers creating such a loss that our client would have no choice but to shut down the hookah lounge within months. Pure Hookah is a family owned and operated business which relies on the earnings of the Business as its main source of income. Closing the Business would not only threaten this family's livelihood but would mean its employees would have to be let go and the community will lose a beneficial member of its business community.

The financial losses to Pure Hookah are already being felt. There are other hookah lounges in Vancouver and Burnaby that people will go to if Pure Hookah's Business is closed early. Pure Hookah had a client base and business model and the City has destroyed it with its one decision to force an early closure. By closing the Business at 11:00 pm, as the City has directed, their gross, monthly sales have fallen from approximately \$30,000.00 to approximately \$8,000.00. They have gone from making an average monthly profit of \$15,000.00 to a monthly loss of approximately \$7,000.00. This affects not only the income to Pure Hookah but makes it inconceivable that anyone would want to buy the Business, should it be for sale. The City's decision to place arbitrary and unfounded limits on the operating hours of the Business has caused serious, long term loss to our client. If this limit is not altered or reversed, Pure Hookah and its directors may face bankruptcy.

Our client appreciates the goal of the City is to ensure that Burnaby is safe and enjoyable for all of its constituents and visitors; however, based on the forgoing there is no reason why allowing the Licence to return to what it was before the amendment should even be a question. It was not reasonable for the City to treat the alleged bylaw infractions as it has with our client – the imposition of the new condition goes beyond the obligation to regulate business. The City actions thus far have been unfair and not in line with

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proper procedures or law. This is particularly true given the evidence contradicting the alleged complaints.

The Business is a valuable and desirable community asset. Pure Hookah runs the business in a safe and secure manner and its operators have always been proactive and cooperated with the authorities to keep the hookah lounge legally compliant. The Business has not been a nuisance for noise or otherwise harmed the community. The Business pays taxes, employs locals and otherwise gives back to the business community. The Business has also become a community meeting space for those from all walks of life and in particular to those of the Indian and Middle Eastern community to celebrate the culture and practice the Muslim religion. The City should not be unfairly restricting businesses like Pure Hookah's but working with them to improve the services they provide and help the community to grow.

We strongly urge the City to reconsider its actions and allow the Business to continue operating as it has for years. The City should remove the condition it imposed on the Licence in April 2019. Alternatively, Pure Hookah would be agreeable to a lesser restriction on its operating hours to allow its business to address any concerns about noise, although denied, and suggests the condition be amended to a 1:00 a.m. closing time Sunday to Thursday and 3:00 a.m. closing time Friday to Saturday. This is in line with the hours in which the City allows other hookah lounges operate (for example, PMC Hookah Lounge on North Road operates until 3:00 a.m. daily and both Arwaz Hookah Lounge and Bliss Café operate until 3:00 a.m. on Fridays and Saturdays). The City should then allow its bylaw officers and police to do their job and ask they attend the Business for bylaw enforcement if and when noise is an issue. Then, if a noise issue is found and proven, the City and Pure Hookah can engage in further discussion about changing the Business' operation to address this as appropriate.

If the City is unwilling to resolve the amendment, given the circumstances, Pure Hookah intends to have the matter reviewed by the appropriate authorities. All decisions and the decision-making process of a municipal Council, and those delegates of its power, are subject to review under the method of review set out in the relevant bylaw, the *Community Charter or Local Government Act*, R.S.B.C. 2015, ch 1, or if no method is specified under the *Judicial Review Procedure Act* by petition to the Supreme Court of British Columbia. In this case, the Licence Bylaw does not appear to provide for an express mechanism to review the City's decision to impose a condition under section 3.2; however the broad business licence authority under the *Community Charter* provides that if a municipal officer or employee exercises the authority to grant or refuse a business license in any way, the applicant or licence holder who is subject to that decision is entitled to have a municipal council reconsider the matter if unreasonable (section 60(5)). Pure Hookah then requests, should the City not be open to a resolution of this matter as proposed or otherwise, a reconsideration of the amendment to its Licence before City Council. We note that should the City have any concerns over time for a reconsideration before City Council, Pure Hookah has brought this request to the City as soon as possible given extenuating circumstances as its sole director, Manbir Singh is currently in hospital undergoing treatment for cancer.

If the City is not agreeable to a reconsideration, our client will make use of any other legal remedies available to it to resolve this matter, including judicial review; however, in the interests of time and expense, our client would suggest a reconsideration would be more appropriate and is within the City's broad powers to regulate its own procedures to grant.

We hope, however, that a reconsideration or judicial intervention is not required and that the City makes the right decision in allowing Pure Hookah to operate its Business as it has before or on a more appropriate condition given the circumstances.

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Kindly direct all responses to the undersigned. Pure Hookah also asks that should the City have any concerns about the Business and alleged noise issues in future, that these matters be forward to us as counsel.

Sincerely,

DAVISON LAW GROUP*

Per,

Dale R. North, BA, JD
Barrister & Solicitor

DRN/jc

*Denotes Law Corporation

Enclosures.

- License for 2019, both with and without Amendment;
- Letter from the City, dated April 3, 2019; and
- Letter from Landlord, dated May 17, 2019.



Public Safety and Community Services Department
Licence Office

2019 April 03

FILE: BYL19-00011
BUS17-01333

Pure Hookah Lounge Inc.
3863 Hastings Street
Burnaby, BC V5C 2H7

SUBJECT: CONDITIONS APPLICABLE TO THE BUSINESS LICENCE GRANTED TO PURE HOOKAH LOUNGE INC. OPERATION AT 3863 HASTINGS STREET

Further to the meeting between the operators/owners of Pure Hookah Lounge Inc. and the City of Burnaby, on 2019 March 14, this letter is to advise you that a decision in regard to the ongoing operation of the business has been reached.

Since 2018 December 09, the operation of Pure Hookah during the late evening and early morning hours has resulted in 21 RCMP calls for service due to noise.

The hourly breakdown of calls to the RCMP is as follows.

Between the hours of:	Number of calls:
2200-2259	2
2300-2359	8
0000-059	3
0100-0159	2
0200-0259	3
0300-0359	3

In addition to the RCMP calls for service, between the dates of 2018 April 14 and 2019 March 26 the Burnaby Engineering Department received 39 noise complaints related to the business.

In consideration of the impact that Pure Hookah's operation is having on the surrounding community, effective the date of this correspondence, the business licence issued to Pure Hookah Lounge Inc. (BUS17-01333) to operate as a restaurant at 3863 Hastings Street, will have the permitted daily hours of operation limited to between 7:00 am to 11:00 pm only. The business is not permitted to operate between the hours of 11:01 pm and 6:59 am. All customers of the business must leave the premises before 11:00 pm.

QA Business Licence Admin; 12 Business Licence Officer; 2019-03-09 March 14 Meeting Follow-up Pure Hookah (2) docx

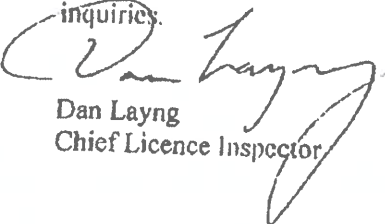
1949 Canada Way Burnaby, BC V5C 1M2 • Telephone 604 294-7320 Fax 604 294 7163 • www.burnaby.ca

Subject: Pure Hookah Lounge Inc. at 3863 Hastings Street
2019 April 03..... Page 2

Section 3.2 of the Burnaby Business Licence Bylaw 2017 provides the Chief Licence Inspector the authority to impose terms and conditions in respect to a business licence granted under the bylaw. An amended 2019 Burnaby Business Licence noting the permitted hours of operation conditions is included. The licence is required to be posted in a conspicuous place on the business premise at all times.

Should Pure Hookah Lounge Inc. not comply with these hours of operation conditions, the business licence to operate may be suspended or cancelled pursuant to Section 7.1(a) of the Business Licence Bylaw, or a Bylaw Violation Notice under Section 11.7(c) may be issued.

You may be contact Robert Grimm, Property Use Coordinator, at 604-294-7989 with any inquiries.


Dan Layng
Chief Licence Inspector

Copied to: Pure Hookah Lounge Inc.
18936 55th Avenue
Surrey, BC V3S 6W7

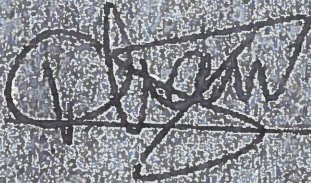
City Solicitor
Deputy Director Engineering
Fire Chief - Burnaby Fire Department
Officer in Charge - Burnaby RCMP Detachment

May 17, 2019

The owner of the commercial real estate (Ruby Plaza) located at 3863 Hastings Street Burnaby, BC, V5C 2H7 has consulted with the residents in the dwelling located at 3865 Hastings Street Burnaby, BC, V5C 2H7. The owner and residents have come to an agreement that all noise complaints expressed by the residents prior to May 17, 2019 have been resolved.

The owner supports the operation of "Pure Hookah Lounge" given that the operators of Pure Hookah Lounge abide by all provincial and municipal laws, bylaws and regulations.

The owner will not be held responsible for any fines, penalties or litigation from the City of Burnaby or any other legal entity as a result of the operation of Pure Hookah Lounge.



Kelly Chang
Owner, Ruby Plaza

May 17, 2019
Date



PAKAR SINGH
Operator, Pure Hookah Lounge

17-05-2019
Date

**Licence Office**

Phone: 604-294-7320

Fax: 604-294-7163

licence@burnaby.ca

Issued To:

PURE HOOKAH LOUNGE INC
3863 HASTINGS ST
BURNABY, BC V5C 2H7

2019**BURNABY REGULAR BUSINESS LICENCE****Licence Number: BUS17-01333****Issued: 2019 February 14****Expiry Date: 2019 December 31****Licence Fee Paid: \$520.00**

DBA: PURE HOOKAH LOUNGE
Description: Hookah lounge cafe - 30 seats
Location: 3863 HASTINGS ST
BURNABY, BC V5C 2H7

Classification: Restaurant

Conditions:
MAX 30 SEATS

***** THIS IS NOT AN INVOICE *****

The business as indicated above is permitted to conduct business as described by this licence provided the lawful requirements relating to business operation and business location are maintained. Any change of business location, change of business nature or transfer of licence must receive prior City approval. This licence must be displayed in a prominent place at the business location.

4949 Canada Way, Burnaby, BC V5G 1M2 www.burnaby.ca

CHIEF LICENCE INSPECTOR


Licence Office

Phone: 604-294-7320

Fax: 604-294-7163

licence@burnaby.ca

Issued To:

PURE HOOKAH LOUNGE INC
3863 HASTINGS ST
BURNABY, BC V5C 2H7

2019

BURNABY REGULAR BUSINESS LICENCE

Licence Number: BUS17-01333

Issued: 2019 February 14

Expiry Date: 2019 December 31

Licence Fee Paid: \$520.00

DBA: PURE HOOKAH LOUNGE
Description: Hookah lounge cafe - 30 seats
Location: 3863 HASTINGS ST
BURNABY, BC V5C 2H7

Classification: Restaurant

Conditions:

Max 30 seats. Hours of operation limited to between 7:00am and 11:00pm only.

***** THIS IS NOT AN INVOICE *****

The business as indicated above is permitted to conduct business as described by this licence provided the lawful requirements relating to business operation and business location are maintained. Any change of business location, change of business nature or transfer of licence must receive prior City approval. This licence must be displayed in a prominent place at the business location.

4949 Canada Way, Burnaby, BC, V5G 1M2 www.burnaby.ca

CHIEF LICENCE INSPECTOR



D A V I S O N L A W G R O U P

19 July 2019

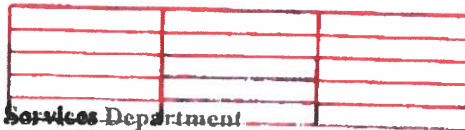
RECEIVED IN
LICENCE.....REPLY TO: Dean P. Davison
Direct Line: 604.629.7809
Facsimile 604.629.7810
Email: ddavison@dlg-law.ca

JUL 25 2019

Our File: 2105-001

BY FAX
604-294-7163

City of Burnaby
Public Safety and Community Services Department
Licence Office
4949 Canada Way
Burnaby, BC V5G 1M2



COPY

Dear Sirs and Mesdames

RE: Pure Hookah Lounge Inc.

We are counsel for Pure Hookah Lounge Inc. ("Pure Hookah") and are writing in response to your letter to them dated 3 July 2019 in which letter you advise Pure Hookah that the City of Burnaby (the "City") is cancelling Pure Hookah's business license for the hookah lounge at 3863 Hastings Street, Burnaby, BC (the "Business") for alleged complaints made about the Business to the City and the RCMP about noise coming from the Business. This letter serves as our notice to the City on behalf of Pure Hookah that we seek reconsideration of this decision and we are requesting certain information.

The City is alleging that numerous noise complaints have been made about the Business to the licensing and engineering departments of the City and to the RCMP, however no evidence has been provided of these complaints to Pure Hookah; therefore, please accept this as our formal request for a copy of the City's file pertaining to Pure Hookah and the Business (as herein defined), including without limitation all complaints made about Pure Hookah or the Business (the "FOI Documents"). We understand that there are statutory timelines for responding to freedom of information requests, however, we ask that this request be expedited so this matter can be resolved without undue delay and we can bring them to the 29 July 2019 meeting. Please send those records to the attention of the undersigned.

We would like to discuss this issue with the City and our client is amenable to the City's previously proposed 'closed door' reconsideration meeting, rather than a public city council hearing.

At the meeting we expect to discuss the complaints referred to in your letter. Our client has serious concerns about the veracity of the allegations of noise violations. As we discussed in our previous letter to the City dated 30 May 2019, Pure Hookah is cognizant of the noise from the Business and has taken measures to ensure that they are not exceeding the *Burnaby Noise or Abatement Bylaw Number 7332* (the "Noise Bylaw"). They have measured the decibels of their music both inside and outside the Business and they are under the limits set in the Noise Bylaw. They are on good terms with their landlord and other tenants in the building and there are no other neighboring buildings that could reasonably hear any music from the

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Ph: 604.629.7808 | Fax: 604.629.7810 | Toll Free: 1.877.208.5048 | Toll Free Fax: 1.877.365.3421

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Business. Importantly, even if there were complaints about the music from the Business, these complaints are not sufficient to cancel Pure Hookah's business license, as the noise from the Business does not violate the Noise Bylaw. The City has drafted the Noise Bylaw for the purpose of determining what levels of noise are acceptable what levels are not – sections 5-8 of that bylaw list the maximum decibels that one may emit in various zones and during certain times. These levels and limits are not open to interpretation. Noise is not evidence of the Noise Bylaw being breached. Simply because a person finds certain music or noises to be unpleasant, does not mean those noises are contrary to the Noise Bylaw. For the Noise Bylaw to be breached, the City requires evidence that it has been breached. That evidence is not a complaint, but actual evidence of noise in excess of the maximum decibels allowed at a given time and in a given location, as set out in the Noise Bylaw. This would require a record of an accurate measurement of decibels taken at the Business along with evidence of when it was taken. The opinions of City bylaw enforcement or police officers is not evidence in this instance.

With respect to Pure Hookah, the City has provided none of this evidence, despite Pure Hookah requesting it. Without limiting the request herein for the FOI Documents, please send us any and all evidence that Pure Hookah violated the Noise Bylaw. We look forward to reviewing this evidence, should it exist, prior to the meeting with the City. If there is no such evidence, any tickets that have been issued by the City against Pure Hookah must be voided.

While Pure Hookah is certain that they were not in violation of the Noise Bylaw, they are willing to take extra steps to decrease the sound from the Business, such as installing noise-dampening fixtures or a suitable noise decibel measuring device. We are happy to discuss this with the City at the meeting as well, however, if you have thoughts about what may be appropriate, please send them to us in advance of the meeting for our client's consideration.

One issue that we would also urge the City to consider is the role that culture and cultural insensitivity plays in this issue. We note that the City licensed the Business as a restaurant, even though the City was aware that the Business is not a restaurant, but a hookah lounge. The City apparently did not think it was important to create a license category for hookah lounges even though they are a unique category of business. We note that the City has categories of business licenses for arcades, cyber centres, and pool halls, but not for hookah lounges. We understand that it may be a coincidence, but the fact that this is a hookah lounge run by an East Indian family, frequented by Muslims, and it has been the target of ongoing complaints when the Business is not in violation of any laws, raises the question of whether the complaints may have their motivation in ethnic or religious prejudices.

On that note, the City should be aware that the Business is not simply a place for people to recreate, it is an important expression of Muslim, middle eastern, and south Asian culture. Hookah lounges are important centers of cultural gathering and exchange, and for Muslims, are a place deeply connected to spiritual reflection after Friday night prayers and after the breaking of the daily fast during Ramadan. Not only does Pure Hookah's Business provide a place for people to engage in their own culture, it allows people of other culture and faiths to be exposed to this aspect of culture. Closing the Business not only puts a family financial future in jeopardy, it deprives communities of this opportunity for multicultural exchange and experience.

Our client wants to work with the City be compliant, avoid complaints, but also carry on with their business. To that end, at the reconsideration meeting we will be seeking a reinstatement of the Business's business license with the original time limits granted (allowing for a closure of 3:00 am); we will be seeking a cancellation of any tickets issued against Pure Hookah for alleged violations of the Noise Bylaw, as such tickets were issued improperly, without evidence or cause; and we will wish to discuss how Pure Hookah

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and the City can work together to ensure the continuation of the Business and an end to any legitimate complaints, if any are found to exist.

In the meantime, until such meeting is held, Pure Hookah will remain open and operational until 3:00 am, as per the City's business license issued to them before it was unreasonably altered and cancelled. If the City has concerns about this, we urge them to have their legal counsel contact us for discussion. To ensure that this state of affairs does not continue any longer than need be, we urge the City to deliver the FOI Documents to us as soon as possible, so the reconsideration meeting can be held on the date now scheduled.

As stated, Pure Hookah wants to comply and work with the City and resolve these issues to the mutual benefit of all involved, however if the City is unreasonable or holds Pure Hookah to a higher standard than that set out in the City's bylaws or violates the rights of Pure Hookah under the *Canadian Charter of Rights and Freedoms*, our client will seek remedies in court. If this matter escalates to a judicial review, the City will be responsible for submitting a complete record to the court, including a transcript of the reconsideration meeting and we ask that the City record that meeting for such judicial review. Hopefully it does not come to that and we look forward to your reply.

Sincerely,

DAVISON LAW GROUP*

Per,

Dean P. Davison
for Dean

Dean P. Davison, JD, MBA, CFE
Barrister & Solicitor

DPD/dm

*Denotes Law Corporation

**CITY OF BURNABY
RECONSIDERATION HEARING
PURE HOOKAH LOUNGE INC.**

To: Council, City of Burnaby
4949 Canada Way
Burnaby, BC V8W 9A4

**Written Submissions of Pure Hookah Lounge Inc. for the
Reconsideration Hearing of October 16, 2019**

The City of Burnaby (“**City**”) Chief Licence Inspector made a decision on July 3, 2019 to cancel a business licence held by Pure Hookah Lounge Inc. (“**Pure Hookah**”) for the hookah lounge located at 3863 Hastings Street, Burnaby, British Columbia (the “**Business**”) (the “**Decision**”).

Pure Hookah asks City Council (the “**Council**”) to reconsider and overturn the Decision and accordingly reinstate Pure Hookah’s business licence. Pure Hookah also asks Council to overturn any Bylaw Violation Notices (“**BN**”) related to this matter, specifically:

- BVN number E001721, dated May 23, 2018; and
- BVN number L200879, dated May 6, 2019.

Background

1. Pure Hookah is a corporation incorporated pursuant to the *Business Corporations Act*, S.B.C. 2002, c. 57, and is the operator of the Business, which opened in 2017.
2. Since the Business opened, Pure Hookah has operated the Business with a valid business licence from the City (the “**Licence**”) under the *Burnaby Business Licence Bylaw 2017* (the “**Licence Bylaw**”). The Licence was granted by the City to Pure Hookah using the restaurant category, as the City did not have a separate category a hookah lounge. The only condition the City placed on the Licence was that the Business has a maximum occupancy of 30 seats.
3. The Licence was renewed by the City in 2018 and 2019 on the same terms.
4. The Business is family owned and operated by an East Indian family. It is the family’s main source of income.
5. The Business provides its visitors with a space to meet and use hookahs, a water-pipe for smoking herbal fruit molasses (non-tobacco). However, the lounge is not only a place for socialization and recreation, but an expression of Muslim, middle eastern and south Asian culture.
6. The Business typically operates seven days a week from 6:00 p.m. to 1:00 a.m., except for Fridays and Saturdays when its hours are extended to 3:00 a.m.

7. After the Business opened, it operated in the City without issue and was a valuable contributor to the City's business and cultural communities.
8. The City, however, alleges, that beginning in or about mid-2018, it has received numerous noise complaints about the Business to the City's licensing and engineering departments and to the RCMP.
9. The City has only issued a single Bylaw Violation Notice ("BVN") to Pure Hookah in relation to these alleged noise complaints, on or about May 23, 2018 for an alleged violation of s.4(a) of the *Burnaby Noise of Abatement Bylaw Number 7332* (the "**Noise Bylaw**") on or about May 19, 2018.
10. In March 2019, the City met with Pure Hookah to discuss the alleged noise complaints. Pure Hookah advised the complaints were untrue and unproven, but said they wanted to work with the City to alleviate its concerns, even offering to undertake action to confirm the complaints and precautions against noise regardless. The City, however, said the noise was not the real issue – the issue was that there had been too many complaints to the RCMP so they had to respond.
11. On or about April 3, 2019, the City amended Pure Hookah's Licence by restricting the Business' hours to between 7:00 a.m. and 11:00 p.m. per section 3.2 of the Licence Bylaw.
12. On May 6, 2019, the City issued a BVN against Pure Hookah for allegedly failing to comply with the conditions of their Licence under s.11.7(c) of the Licence Bylaw on April 7, 2019.
13. On July 3, 2019, the Decision was made and Pure Hookah's Licence for the Business cancelled under section 7.1(a) of the Licence Bylaw on the basis that the alleged noise complaints had continued and the Business was operating in breach of the conditions on operating hours for their Licence.

The Noise Complaints are Unproven

14. The Chief Licence Inspector made the Decision by concluding the noise complaints about the Business are true and in violation of the City's bylaws. This conclusion was also a factor in the April 2019 amendment of the License which led to the Decision. Pure Hookah, however, has serious concerns about the veracity of these allegations.
15. As noted, Pure Hookah is cognizant of the alleged noise issue and has taken measures to ensure they are not exceeding the Noise Bylaw:
 - a. Pure Hookah has been fully compliant with the City and other authorities whenever approached about a noise or other concerns from the operation of their Business. Pure Hookah easily resolved these concerns by advising the Business' patrons of the issue, turning down its music, and ensuring the premises are secure.

- b. Pure Hookah measured the decibels of their Business, both inside and outside, and the Business's noise has not violated the Noise Bylaw. At their loudest, the noise levels were approximately 40 dBAs inside the Business and 25 dBAs outside, well under the Noise Bylaw limits for same. We note Pure Hookah has offered to provide the City with these results as well as conduct additional measurements to confirm if there is a noise issue, which is denied, however the City has at all times refused such offers.
 - c. Pure Hookah is on good terms with their landlord and the other tenants in the building where the Business resides. Pure Hookah has confirmed with these parties that they have no issues with noise from the Business or that any such issues were resolved. Again, we note Pure Hookah has provided the City with written evidence of this fact.
 - d. There are no neighboring buildings that could reasonably hear any music or other noise from the Business. The next closest building is approximately 280m away. It appears that some of the noise complaints against Pure Hookah are from more than two blocks away which not only would make it difficult for them to hear noise from the Business but would be particularly hard for them to confirm the noise they heard was actually from the Business.
16. Even if there were complaints about noise from the Business, that does not mean Pure Hookah has violated the Noise Bylaw. The purpose of the Noise Bylaw is to assist authorities in determining what levels of noise are acceptable within the City and what levels are not, per the limits set out sections 5-8 of the bylaw, and then if it is established that the noise is not acceptable take the appropriate action. These levels and limits are not open to interpretation. Noise alone is not evidence of the Noise Bylaw being breached. A complaint about noise is also not evidence. A person may be over-sensitive or find certain sounds unpleasant but that does not mean the Noise Bylaw has been breached.
 17. There must be actual evidence of noise in excess of the maximum decibels allowed at a given time and location, as set out in the Noise Bylaw. Pure Hookah has asked for this evidence however the City has not provided any such evidence. The City appears to be aware that this type of evidence is required to find a violation as we note the only complaint that resulted in a BVN being issued against Pure Hookah is the one where the City says it measured the noise levels. The City did not issue BVNs for the complaints where no one visited the Business to verify the complaint by measurements or otherwise, and rightly so.
 18. If there is no evidence demonstrating Pure Hookah has violated the Noise Bylaw, then any BVN issued accordingly is void. Similarly, any other City decision made on a violation without evidence is also void.
 19. Further, for the City to conclude that Pure Hookah has allowed the Business to violate some noise requirements such as to cancel its Licence, they must have been found guilty by a Court or similar authority of breaching the applicable law. A mere allegation that a party is violating the law is not enough. For example, if a violation of the Noise Bylaw is

alleged, then Pure Hookah must be ticketed, the ticket adjudicated, and the tickets found valid and enforceable for the City to conclude this wrongful activity has occurred. No such decisions have been made against Pure Hookah. The City's conclusions regarding the noise complaints for the Decision and those events leading up to it are therefore premature.

Duty of Procedural Fairness and Natural Justice

20. It is submitted that for the City to make a decision regarding the Licence on the basis of alleged bylaw violation without providing evidence that Pure hookah has been found in violation of the bylaw and allowing Pure Hookah a proper opportunity to contest this allegation is not only dishonest but against the principles of procedural fairness and natural justice.

21. Administrative decision makers, including Licence Inspectors, owe a duty of procedural fairness to those affected by their decisions as their powers are derived from statute and such power must be exercised in accordance to the rules of administrative law and natural justice.

Baker v. Canada (Minister of Citizenship and Immigration) (1999),
1999 CanLII 699 (SCC) 174 D.L.R. (4th) 193 [*'Baker'*], at para 20

22. The concept of procedural fairness is variable and its content is to be decided in the specific context of each case. The following non-exhaustive factors are relevant to determine the content of the duty of fairness:

- a. the nature of the decision being made and the process followed in making it.
- b. the nature of the statutory scheme and the terms of the statute pursuant to which the body operates.
- c. the importance of the decision to the individual or individuals affected.
- d. the legitimate expectations of the person challenging the decision.
- e. the choice of procedure made by the agency itself.

Baker, at paras 23-27

Knight v. Indian Head School Division No. 19, 1985 2 S.C.R. 643, at p 682

23. It is well-settled in law that the duty of procedural fairness includes the rights for individuals affected by an administrative decision to have an opportunity to present their case fully and fairly, including knowing the case made against them, and have the decisions affecting their rights, interests, or privileges made using a fair, impartial, and open process, appropriate to the statutory, institutional, and social context of the decision. These rights act as a safeguard for individuals in their interactions with the government and are based on the theory that a final decision is more likely to be reasonable if the procedure through which that decision was made is fair and just.

Baker, at para 28

24. Procedural fairness requirements in administrative decisions are not technical, but rather functional in nature. The question is whether, in the circumstances of a given case, the

party that contends it was denied procedural fairness was given an adequate opportunity to know the case against it and to respond to it.

Petro-Canada v. British Columbia (Workers' Compensation Board), 2009 BCCS 396, at para 65.

25. In this case, the duty of procedural fairness was breached in the following ways:

- a. If the Chief License Inspector had evidence to support his conclusion that the noise complaints against the Business were valid, which we say he did not, then he failed to disclose that evidence to Pure Hookah, and therefore give them an opportunity to respond, in making the Decision which is a breach of the duty of procedural fairness / natural justice principles. A business licence holder cannot properly respond to a complaint without knowing the full extent of that complaint. As noted before, receipt of a complaint alone is not evidence, neither are the opinions of City engineering staff or RCMP officers without something more. Pure Hookah has asked the City to provide this evidence but the City has refused.
- b. A higher level of duty of procedural fairness is owed by the Chief Licence Inspector to Pure Hookah in this case. The Decision is especially important to Pure Hookah as they have invested significant time and expense into developing the Business and the Business is its owners' primary source of income.
- c. The City has rules and procedures regarding licencing and bylaw infringement, and it should follow them. The City cannot ignore these rules simply because there is extra time or effort involved, nor can it circumvent them by making it difficult for a business to operate otherwise. The City should also not be bending to pressure from outside forces – it should only take action when a claim has been substantiated, which is not the case here.

26. It is arguable that the process used by the Chief Licence Inspector was neither fair, impartial, nor open as required under the duty of procedural fairness. The remedy for a breach of the duty of procedural fairness at law is reconsideration of the decision by the administrative decision maker in accordance with the duty. Pure Hookah submits that a consideration of their legitimate expectations in this case is a process that is conducted fairly, impartially, and openly, mandates that the Decision be overturned and its Licence be reinstated.

The Decision was Unreasonable

27. Decisions of administrative decision makers that involve mixed questions of fact and law are reviewable by the Courts on a standard of reasonableness. According to this standard, a reasonable decision is one which “falls within the range of possible, acceptable outcomes which are defensible in respect of the facts and law”.

Northland Properties Corporation v. British Columbia (Liquor Control and Licencing Branch),
2011 BCSC 160, at para 72

Dunsmuir v. New Brunswick, 2008 SCC 9 [*Dunsmuir*], at paras 47 and 51

28. It would be unreasonable for a municipality to make a decision on a business licence on the basis of belief or suspicion of a bylaw breach.
Westfair Foods Ltd. v. Saanich (District) (1997), 1997 CanLII 3686 (BC CA), 49 B.C.L.R. (3d) 299, 46 M.P.L.R. (2d) 104 (C.A.)
29. In this case, the Decision was unreasonable because the Chief Licence Inspector considered the following irrelevant and impermissible factors and make the following improper and incorrect conclusions:
 - a. The Chief Licence Inspector breach the law respecting his duty of procedural fairness to Pure Hookah; and
 - b. It has not been established to the standard required that the Business' activities violate the City's bylaws. The Chief Licence Inspector does not have evidence of any violations, as discussed.
30. While the cancellation of Pure Hookah's Licence is the decision begin reconsidered by Counsel, we note that the City has also acted unreasonably in the events that lead to this Decision. Again, the City made conclusions on noise complaints that were premature. The restriction imposed on the Business by the City in April 2019 was also unreasonable and arbitrary. The breakdown of the alleged noise complaints in the City's documents does not justify the particular condition imposed – a closure of the Business between 11:01 p.m. and 6:59 a.m. A Licence Inspector should only impose conditions “in appropriate circumstances”, meaning circumstances where the condition is just and reasonable in addressing the issue. Imposing a condition on a licence that is arbitrary or lacking “real-world justification” is not only inappropriate but unfair and subject to review. This is particularly so where Pure Hookah had offer alternative and better-suited means to resolve the allegations than the restricted operating hours.
(Francis (Sisters Icee's Hemp .B.C.) v. Vancouver (City), 1999 CanLII 5571, para 26; *Seaspan Ferries Corporation v. British Columbia Ferry Services Inc.*, 2013 BCCA 55, para 131)
31. When a reviewing Court finds that an administrative decision maker has reached an unreasonable decision, the Court will remit that matter back for reconsideration, taking in consideration only appropriate factors and law. In extreme cases, the Court will reverse the decision itself. Pure Hookah submits that, in this case, the Decision was unreasonable.

Impact of the Decision on the Community

32. Pure Hookah appreciates that the City has a role in ensuring the safety and health of its community, however the Decision does not further that purpose. Additionally, the Decision impacts the community's diversity and multiculturalism. For a body that has an explicit Multicultural Policy, it appears that on all matter regarding the Business, the City has put little effort into fulfilling this goal.
33. As a member of the City's business community, the Business brings a rare enterprise, so unique the City doesn't even have a business licence category for it, to a growing economy, it pays taxes, it hires locals and it helps support a local family. To allow the Decision to

stand would not only mean a loss to the business community but would result in letting go those local employees and deeply impact a owners' family financially with loss of its only income and investment.

34. In the above, it was noted that hookah lounges like the Business are important to the middle eastern, south Asian and Muslim communities. The City should be aware that hookah lounges are important centers of cultural gathering and exchange for those ethnicities and for Muslims are a deeply connected to spiritual reflection after evening prayers and the breaking of daily fast during Ramadan. Further, not only does the Business provide a place for these communities to engage in their own culture and religion, but it allows people of other cultures and religions to be exposed to this aspect of culture. A hookah lounge is an important contributor to multicultural exchange in the City which promotes education, diversity and tolerance.
35. Pure Hookah urges the City, in reconsidering the Decision, to consider the role that culture and cultural insensitivity plays in this issue. It may be a coincidence, but the fact that this is a hookah lounge run by an East Indian, frequented by Muslims, and has been the target of ongoing complaints when the Business is not in violation of any laws, raises the question of whether the complaints may have their motivation in ethnic or religious prejudices. If the City's Decision is influenced by these factors then Pure Hookah's rights under the *Canadian Charter of Rights and Freedoms* (the "*Charter*") may be engaged, including the consequences that result if any of those rights are violated.

Conclusion

36. The Decision is unreasonable in consideration of the facts and law in these circumstances given that the complaints leading to the cancellation are unproven and there is no evidence of same. To conclude otherwise would not only be unfair but is a breach of the duty of procedural fairness and natural justice the City owes to Pure Hookah in making the Decision and for this reconsideration.
37. The Business is a valuable and desirable community asset. It not only contributes to the City's economy but brings greater diversity and performs an important culture function for the community. The Business plays a key role in helping members of the middle eastern, south Asian and Muslim communities practice their cultures and faith as they have a protected *Charter* right to do. The Business has become a community meeting space for those from all walks of life. The City should not be unfairly restricting such desirable businesses like Pure Hookah's but work with them to improve the services they provide and help the community to grow.
38. Pure Hookah strongly urges the City to reconsider its actions and allow the Business to continue operating. Pure Hookah wants to work with the City to meet its goals on health and security and be compliant and avoid complaints, but the City must understand that it also needs to be able to carry on with its business in a way that makes sense financially and for its patrons. Pure Hookah is certain they are not in violation of the City's bylaws, but are open to working with the City to find a way to resolve the alleged noise

allegations whether it be through installing noise-suppression methods or further testing to confirm the noise issue. Otherwise, the City should then allow its bylaw officers and the police to do their job and ask they attend the Business for bylaw enforcement if and when noise becomes an issue. Then, if a noise issue is found and proven, the City and Pure Hookah can engage in the proper adjudication of that issue including any changes to the License.

39. On the basis of the foregoing, Pure Hookah asks that Council reconsider and overturn the Decision and reinstate the Business' Licence.

All of which is respectfully submitted,



Counsel for Pure Hookah Lounge Inc.
Dean P. Davison and Dale R. North