

# Staff Report



Corporate Services Department

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**REPORT TO:** Committee of the Whole

**DATE OF MEETING:** November 6, 2023

**SUBMITTED BY:** Licensing Appeal Tribunal

**PREPARED BY:** Marilyn Mills, Committee Coordinator, 519-741-2200 ext. 7275

**WARD(S) INVOLVED:** All

**DATE OF REPORT:** November 24, 2023

**REPORT NO.:** COR-2023-536

**SUBJECT:** Licensing Appeal Tribunal - Chapter 599 (Food Shop Licence)

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## RECOMMENDATION:

That the decision of the Licensing Appeal Tribunal, attached as Appendix 'A' to Corporate Services Department Report COR-2023-536, wherein the Committee affirms the revocation of a food shop licence (Chapter 599 - City of Kitchener Municipal Code) issued to Mr. K. Abraha for the operation of Afro-East Restaurant Inc., at the property municipally addressed as 91 Queen Street South, Kitchener, Ontario, be approved.

## REPORT HIGHLIGHTS:

- The Manager of Licensing issued a revocation of the Food Shop Licence for Afro-East Restaurant Inc. as the conditions for maintaining the Food Shop Licence were not being complied with.
- On November 16, 2023, the Licensing Appeal Tribunal convened to consider an appeal to the Manager of Licensing's decision to revoke the licence, Appeal 2023-01 related to the Food Shop Licence for the property municipally addressed as 91 Queen Street South.
- The City's Licensing Tribunal, based on testimony and evidence provided at the hearing, affirmed the decision to revoke the Food Shop Licence.
- This report supports the delivery of core services.

## BACKGROUND:

Chapter 599 of the City of Kitchener Municipal Code governs the licensing and regulation of businesses. Afro-East Restaurant Inc., operating at 91 Queen Street South was issued a business licence on June 20, 2022. While operating, several concerns were raised related to operation of the business. After several meetings and attempts to have the owner rectify these concerns, the Manager of Licensing imposed conditions on the Food Shop Licence. Following violations of the conditions imposed on the licence, the Manager of Licensing revoked the licence on May 10, 2023.

On May 19, 2023, the owner and licensee of the subject property, Mr. K. Abraha submitted a notice of appeal to the revocation of the Food Shop licence and was permitted to continue operating the food shop, subject to the original conditions imposed on the licence, until a Licensing Appeal Tribunal hearing was held.

On August 16, 2023, following subsequent violations of the conditions on the licence, the Manager of Licensing issued an Order to Discontinue operations of the establishment (with the exception of one pre-scheduled religious ceremony), until the final disposition of the appeal.

## **REPORT:**

The Licensing Appeal Tribunal, established by the Council pursuant to Chapter 599 of the City of Kitchener Municipal Code, the *Ontario Municipal Act, 2001* and the *Statutory Powers Procedure Act*, sat on November 16, 2023 to consider submissions to determine whether or not to refuse a Food Shop Licence to Afro-East Restaurant Inc. operating at 91 Queen Street South, Kitchener, Ontario.

The Committee considered the following:

- testimony provided on behalf of the Respondent by: H. Fylactou, Manager of Licensing, City of Kitchener; J. Spalling, Constable, Waterloo Regional Police Service; I. Mishael, Manager of By-law Enforcement, City of Kitchener; C. Gowing, Fire Prevention Officer demonstrating that there were ongoing issues related to Afro-East Restaurant Inc. including violent incidents requiring Police service, noise disturbances, Bylaw complaints, liquor offences and fire code violations, in contravention to the conditions of the Food Shop Licence.
- testimony of H. Esak and Y. Tekle, Witnesses for the Licensee, noting the business owner had taken steps to address violations of the conditions of the Food Shop Licence.
- testimony of K. Abraha, Licensee and owner of Afro-East Restaurant Inc. in opposition to the claim of non-compliance to the conditions imposed on the Food Shop Licence; and requesting the Committee permit the Food Shop Licence with conditions.

In addition, the Committee reviewed and considered the provisions of Chapter 599 (Licensing and Regulation of Businesses) of the City of Kitchener Municipal Code and recommended that having considered all the evidence and exhibits presented during the Hearing, the revocation of the Food Shop Licence applied to Afro-East Restaurant Inc. **be confirmed**.

## **STRATEGIC PLAN ALIGNMENT:**

The recommendation of this report supports the achievement of the city's strategic vision through the delivery of core service.

## **FINANCIAL IMPLICATIONS:**

There are no financial implications associated with this report.

## **COMMUNITY ENGAGEMENT:**

INFORM – All those in attendance at the November 16, 2023 Hearing were advised of the Tribunal’s decision and that it would be considered at the December 11, 2023 Council meeting as required by the By-law. In addition, a Notice of Decision was sent to the Appellant and the Respondents by email and registered mail on November 23, 2023; thereby, further notifying both parties of the date the Tribunal’s decision would be considered by Council and the process for registering as a delegation.

**PREVIOUS REPORTS/AUTHORITIES:**

There are no previous reports/authorities related to this matter.

**ACKNOWLEDGED BY:** Victoria Raab, General Manager, Corporate Services

Attachment A – Licensing Tribunal Decision