

# Staff Report



Corporate Services Department

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**REPORT TO:** Committee of the Whole

**DATE OF MEETING:** June 24, 2024

**SUBMITTED BY:** Amanda Fusco, Director of Legislated Services, 519-741-2200 ext. 7809

**PREPARED BY:** Kristin VanDerGeld, Manager of Licensing, 519-741-2200 ext. 7854

**WARD(S) INVOLVED:** 1

**DATE OF REPORT:** June 5, 2024

**REPORT NO.:** COR-2024-286

**SUBJECT:** Appointment of Licensing Appeal Tribunal Members

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## RECOMMENDATION:

That Councillors 1. \_\_\_\_\_, 2. \_\_\_\_\_, and 3. \_\_\_\_\_ be appointed as the members of the Licensing Appeal Tribunal.

## REPORT HIGHLIGHTS:

- This report supports the delivery of core services.

## BACKGROUND:

Chapter 508 (Licensing and Regulations of Alternative Massage Centres) of the City of Kitchener Municipal Code governs the licensing and operation of Alternative Massage Centres. As part of the business licensing regulations, the Manager of Licensing may refer a licence to the Licensing Appeal Tribunal who have the authority to impose conditions, suspend or revoke a business licence if they find the business is in violation of Chapter 508, or other applicable bylaws, or Acts. The Business Owner (the Licensee) shall be given reasonable notice of the time and place of the hearing and shall be invited to make submissions as per Chapter 508 'Schedule A, section 9'. The Manager of Licensing does not have the authority under this Chapter to revoke a licence.

Over the last 6 months, Licensing staff has collaborated closely with the By-law Enforcement team to address concerns pertaining to Ocean 7 Wellness, a licensed alternative massage centre situated at 540 Frederick Street which has been in operation since September 7, 2023. The location of the business is situated in a residential area and multiple complaints have been received from area residents in relation to this establishment. Investigations have been conducted to confirm that these complaints are valid. The complaints span a wide range, encompassing issues such as operating outside of permitted hours, attendants wearing garments that appear to be lingerie, services being offered appeal to erotic or sexual appetites or inclinations, lighting concerns, sign violations, and harassment. During the application process the Licensee applied for a Zoning Occupancy Certificate (ZOC) and was advised that

\*\*\* This information is available in accessible formats upon request. \*\*\*  
Please call 519-741-2345 or TTY 1-866-969-9994 for assistance.

they were unable to operate a commercial business from this location. However, the Licensee was advised a home occupation business would be permitted with the understanding that they would have to live at this location as their principal address. During the investigation process it was discovered that the Licensee does not reside at the property. This was later confirmed by the Licensee in writing via email that they permanently reside outside the region. Therefore, the business is currently operating in contravention of zoning regulations.

In response to these ongoing concerns, the Licensee was issued verbal warnings regarding hours of operation, appropriate attire, and advertising requirements. By-law enforcement attended to resolve the lighting concern. However, complaints persist. The building is currently zoned as a single-detached dwelling and not a commercial space and therefore without going through the site plan process the only available option would be to operate a home-based business. The Licensee was informed during the application process about the zoning regulations and the requirement to reside at the property in order to be permitted to operate a home-based business. On the Licensee's most recent business licence renewal application they indicated their home address as being 540 Frederick Street, but the supporting documentation indicated her home address to be outside the region which was confirmed via email. As such, the Licensee has failed to meet the conditions of the business licence and the requirements of the Zoning By-law therefore the Manager of Licensing is referring the matter to the Licensing Appeal Tribunal for revocation of the licence in accordance with Chapter 508, 'Schedule A, Section 10.'

## **REPORT:**

In order to facilitate the appeal, staff is requesting the appointment of 3 councillors to serve as members for the Licensing Appeal Tribunal for the upcoming hearing concerning Ocean 7 Wellness.

In previous Tribunals, the ward councillor is usually not one of the appointed members of the Licensing Appeal Tribunal to avoid any potential perceptions of bias.

Once the appointment has been made staff will work with the Licensing Appeal Tribunal to schedule a hearing date. It is anticipated that the hearing will take place in the morning; however, members of the Licensing Appeal Tribunal should allocate the entirety of the workday. The Licensing Appeal Tribunal may recommend, with respect to the Alternative Massage Centre Licence, to Council whether:

- To support the revocation of the licence;
- To suspend the licence;
- To grant the licence; or,
- To grant the licence with conditions.

The appointed members and applicant will receive a notice of the location and time of the Licensing Appeal Tribunal.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

There is no fee for a Licensing Appeal.

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City’s website with the agenda in advance of the council / committee meeting.

**PREVIOUS REPORTS/AUTHORITIES:**

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

**APPROVED BY:**

Victoria Raab, General Manager, Corporate Services