

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.
JUSTICE A. J. GOODMAN

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THURSDAY, THE 5TH DAY
OF SEPTEMBER, 2024

BETWEEN:



CITY OF HAMILTON

Applicant

- and -

1000434631 ONTARIO INC. O/A CLUB 33 INC.,
1000038047 ONTARIO INC O/A NOVE MAINTENANCE INC.,
and 2677191 ONTARIO INC.

Respondents

ORDER

THIS MOTION, made by the City of Hamilton, was heard this day at the John Sopinka Courthouse, 45 Main Street East, Hamilton, Ontario.

ON HEARING the submissions of the Applicant, and reading the materials filed, and having regard to the urgency of the situation,


1. **THIS COURT ORDERS** that the time for service, filing, and confirmation of the Notice of Motion, Motion Record, and motion materials is hereby abridged *nunc pro tunc*, so that this motion is properly returnable today.
2. **THIS COURT ORDERS** that an interlocutory statutory injunction is granted pursuant to section 440 of the *Municipal Act*, and pursuant to section 101 of the *Courts of Justice Act*.

3. **THIS COURT ORDERS** that the Respondent, 1000434631 Ontario Inc. o/a Club 33 Inc., is hereby restrained and enjoined from carrying on at the property located at 33 Bowen Street, Hamilton, Ontario (the "Property"), any activities that require a business license pursuant to the City of Hamilton's By-law 07-170, being a By-law to License and Regulate Various Businesses (the "Licensing Bylaw"), including but not limited to the operation of a Bar, Nightclub, Afterhours Club, Entertainment Venue, and / or Restaurant, without having obtained in advance a current and valid business license issued under the Licensing By-law.
4. **THIS COURT ORDERS** that this Order be directed to the Sheriff for the City of Hamilton for enforcement.
5. **THIS COURT AUTHORIZES** the Hamilton Police Service ("HPS") to arrest and remove any person who has knowledge of this Order and who the HPS have reasonable and probable grounds to believe is contravening or has contravened any provision of this Order. The HPS shall retain discretion:
 - a. as to the timing and manner of enforcement of this Order, and specifically retain discretion as to the timing and manner of arrest and removal of any person pursuant to this Order;
 - b. to detain and release any person without arrest who the HPS have reasonable and probable grounds to believe is contravening, or has contravened, any provision of this Order, upon that person agreeing to abide by this Order; and
 - c. to lay any charges or take any other lawful action.
6. **THIS COURT FURTHER AUTHORIZES** any officer with the City of Hamilton's Municipal Law Enforcement ("MLE"); a duly authorized agent of the City of Hamilton, including a licensee under the *Private Security and Investigative Services Act, 2005*, S.O. 2005, c. 34, as amended ("Authorized City Agent"); or any police officer with the HPS; to take any steps deemed reasonable and necessary to prevent any uses of- or activities at the Property that contravene the

injunction pursuant to this Order, including but not limited to authorization to restrict or block access to the Property if MLE, the Authorized City Agent, and/or the HPS have reasonable grounds to believe unlicensed business activities are being, or will be, carried on in contravention of the injunction and this Order.

7. **THIS COURT ORDERS** that notice of this Order shall be given by the City of Hamilton issuing a digital press release with a link to the Order. Additional notice of this Order may be given by:
 - a. creation of a URL on the City of Hamilton website whereby this Order can be viewed and downloaded;
 - b. posting copies of this Order on or around the Property;
 - c. reading the Order to any person, including but not limited to reading the Order over an amplification system; and
 - d. any other manner deemed appropriate by the City of Hamilton, the Sheriff for the City of Hamilton, or the HPS.
8. **THIS COURT ORDERS** that this Order shall not apply to persons acting in the course of or in the exercise of a statutory duty, power, or authority.
9. **THIS COURT ORDERS** that the injunction shall remain in effect until Thursday, September 12, 2024 until 5:00 PM. The Parties are directed to attend before Justice A. J. Goodman of this Court, in person, at 9:30 AM on September 12, 2024, to speak to an extension of the Interlocutory Injunction.
10. **THIS COURT ORDERS** that if no Respondents attend or otherwise seek to vary or set aside the Interlocutory Injunction on the September 12, 2024 motion date, the Injunction shall remain in effect until it is set side by this Court. A party wishing to set aside this Order after September 12, 2024, may bring a motion to do so with at least 24 hours' notice to the City of Hamilton and the Court.

11. **THIS COURT ORDERS** that the terms of this Order shall remain in force until the hearing of the within Application, or until varied by Order of this Court.



(Signature of Judge)

ISSUED AND ENTERED ELECTRONICALLY

Local Registrar
45 Main St. E.
Hamilton, ON L8N 2B7

CITY OF HAMILTON
Applicant

-and-

1000434631 ONTARIO INC. O/A CLUB 33 INC. et al.
Respondents

Court File No. CV-24-00086918-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
HAMILTON**

ORDER

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