



Centre for Criminology & Sociolegal Studies
UNIVERSITY OF TORONTO

Professor Mariana Valverde

TO: Municipal Licensing and Standards Committee of Toronto City Council

RE: MLS policies and practices in regard to holistic health practitioners and related businesses

Date: April 10, 2018

I am a full professor at the University of Toronto, and I have long studied municipal licensing and municipal by-law enforcement empirically. In my 2012 book *Everyday Law on the Street: City Governance in an age of Diversity* I published research I carried out for five years on bylaw enforcement in Toronto. There was a chapter on taxi licensing, one on hot dog vendors' struggle to legalize a wider array of street food, and two containing a great deal of data on the work of 'generalist' MLS officers (I had had four doctoral students doing ride-alongs with MLS inspectors, over several summers). Since that book, I have done additional research on licensing (e.g. a recent article on the legalization of Uber), and I have been in close touch with grassroots organizations with first-hand knowledge of MLS activity.

My expertise suggests that a moratorium on some types of holistic practitioners would only exacerbate the problems highlighted in the auditor's report for 2017. In general, increasing enforcement and tightening rules make sense only when a government wants to completely ban an activity (e.g. drunk driving). Business licensing is meant to regulate, not to suppress, business activity. The goals of business licensing are to foster the local economy, protect workers, and protect the public from risks associated with particular activities. Enforcing by-laws for the sake of enforcement is not an appropriate goal (e.g. the property standards by-law is often left unenforced, for good reasons).

The basic principles of administrative law, which are ultimately what city staff need to be guided by, demand that business licensing be rational and fair. In Toronto, the licensing system for holistics, body rubs, and various adult establishments and services is neither rational nor fair. For example: there's a maximum of 25 body rub licences – this means that the city's own bylaw is directly causing illegality. If the number of bars were set an unrealistically low level, or if liquor licences were set at an unrealistically high price, we would see a proliferation of booze cans.

It may well be that some people are operating businesses under the 'holistic' category that would be better classified as 'body rubs'. If so, the source of the problem is the by-law itself – not the

marginalized women, many of them migrants, who work in these establishments. Reviewing the holistic licence system is not going to solve the problem. What is needed is a much more thorough review of a broader range of business licences. The scope of the review should be determined by a representative group, including the stakeholders from different licensing categories and types of work, perhaps some councillors, and some neutral experts, including people from public health, whose recent experience with safe injection sites has given them a wealth of knowledge about how to manage and regulate risky activities without the kind of heavy-handed enforcement that can only ever shift an activity from one place to another, never eliminate it.

From what I have seen and heard, it seems that MLS has been dominated by a narrow enforcement perspective (I saw this back in 2007-2009 when researching street food vendors' problems, but the attitude seems to still be present). Some licensing inspections appear to have been carried out disrespectfully and with potential breaches of human rights. In addition, I have heard several credible stories about migrant women targeted in MLS raids being handed over to immigration, contrary to the city's own sanctuary policy. The stories I have heard are a major lawsuit waiting to happen.

What is needed is not a moratorium on any type of licence (a heavy-handed move that would only cause further illegalities), or a review of the holistic licence categories. What we need is a comprehensive, evidence-based review of a broader range of licensing by-laws, a review that will provide consistent, human-rights oriented direction to MLS staff.

Mariana Valverde, PhD, FRSC

Professor, Centre for Criminology & Sociolegal Studies

University of Toronto

Canadiana Gallery, 14 Queen's Park Crescent West, Room 261 Toronto/Ontario/Canada

Tel: +1 416 978-3722 ext.229 • Fax: +1 416 978-4195 • m.valverde@utoronto.ca