

From: lisa@thephoenixconcerttheatre.com
To: counselmeeting@toronto.ca; [Councillor Thompson](#); [Councillor Cressy](#)
Cc: [Mike Tanner](#)
Subject: Amendment to Regulations 364/20 Live Music Venues
Date: October 14, 2020 4:47:09 PM

Gentlemen,

My apologies for missing the opportunity to speak today. The technology gods were not smiling upon me!

I am hoping that we can get clarification on reg 364/20 as it pertains to live music venues. To date, no one at TPH has been able to explain why Live Venues have a more restricted capacity than restaurants, bars, event spaces and cinemas. We hope that, during this 28 day closure, we can get your assistance to ensure that we be treated fairly and equitably, upon reopening.

As you know, I am an owner/operator of The Phoenix Concert Theatre in Toronto. and The Bronson Centre Music Theatre in Ottawa. Both venues closed mid March.

We were operating occasional events at The Phoenix late August through mid September. We opened our doors based on confirmation from Fiona Chapman, Director of Licensing and Regulatory Services, Municipal Licensing and Standards Division, that our business license has an endorsement for victualing (lovely old phrase), allowing us to operate as a restaurant. While we always serve food at The Phoenix (this is an AGCO requirement) we were doing so through an outside vendor prior to closing our doors in March. To comply with the Provincial order for restaurants, we moved to internal food service. As such, we were told that this allowed us to move the 50 person capacity restriction to 100 person capacity. We then applied for the City of Toronto exemption to expand to up to 200 at the end of July, at which point we were told the following by members of TPH :

1. That, in accordance to regulation 364/20, any restaurant engaging live performances is required to reduce capacity to 50 patrons from 100 - 200;
2. That, as a restaurant, we could expand to 100+ patrons if we hired a 'plug and play' DJ but not a "DJ like Avici" (as in a known, marquee DJ that will draw a ticketed audience). This would require us to limit to 50 patrons. No explanation on the difference was given;
3. That we could provide entertainment such as airing an NBA game and keep capacity at 100+. However, live accompaniment ie speakers, podcasters, hosts, would not be allowed at the 100+ person capacity; we would have to revert to 50. Again, no explanation given.

It was clear that there was a lot of misunderstanding and misinterpretation around the guidelines within reg. 364/20. Most discussion with members of TPH resulted in more questions than answers, and admissions that there was no clear reason why or how these different scenarios effected public health. I was told that TPH were simply there to enforce the Provincial regulations. I was also told by TPH to consider hiring legal counsel to get clarification from the Province.

The Ministry of Culture (who submitted my inquiry to Ministry of Health) weighed in, and told me that they interpreted the regulations as I did, and that I should go back to the City, I was then told by TPH that the Minister of Health would have to amend the guidelines before there would be a change to City regulations.

We hope that during this 28 day shut down, this amendment can be pushed by the City of Toronto, and not just by

myself and my two venues. This is a matter that effects many large venues in the City, all of which need to be given a fighting chance upon reopening.

The Phoenix is 18,000 square feet. Our AGCO capacity is 1350 patrons. We are well set up to socially distance. We did not allow 'walk ups', and only allowed entry to patrons that had purchased tickets online, in advance. The online ticketing link included all guidelines to enter the room, including staggered entry, mandatory masks, refunds for anyone displaying symptoms, etc. It also provided us with contact tracing information of the ticket purchaser. That said, upon entry, security greeted patrons, provided disinfectant to the patrons, and took down contact tracing information of all patrons, not only the ticket purchaser, prior to this being a requirement. Before the patrons entered the room, I personally took each group through a tutorial of conduct once they entered the room. They were escorted to their tables and could only take off their masks once seated. We had ample signage and disinfectant throughout the room.

We had two seatings for events. We fully disinfected the room between performances, using foggers and Vital Oxide, an approved disinfecting solution that is non toxic and odorless, and is safe to use on food surfaces.

Revenue from these small 100 person events did little more than cover operating costs. The 50 person restriction, along with the 11p.m. last call, was simply prohibitive, so we have since closed until further notice. However, I am confident that we can open safely and responsibly, once we get the green light to operate at a fair and reasonable number.

I want to be clear that Toronto Public Health have been responsive and sympathetic to our situation, and to the challenges of our business sector. This is a matter that has to be addressed at a Provincial level,. If we are to survive, we will need to 'hit the ground running' once restrictions are lifted. We are not a 'turnkey' business. We cannot reopen immediately like a gym or restaurant or bar; we require weeks if not months to build programming, announce and promote once we understand the new restrictions and how we can best comply. That puts us at a mid December opening at best. We aren't asking for any special treatment to reopen, only to be given guidelines that are aren't punitive or discriminatory, and are commensurate with like hospitality and entertainment businesses.

Thank you for your attention to this matter. Please let me know if I can provide any further background or information to assist.

Very best,

Lisa Zbitnew
Owner/Operator
The Phoenix Concert Theatre
Bronson Centre Music Theatre
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