

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Applicant

– and –

ADAMSON BARBECUE LIMITED and WILLIAM ADAMSON SKELLY

Respondents

APPLICATION RECORD

(Application under section 9 of the *Reopening Ontario
(A Flexible Response to COVID-19) Act*, SO 2020 c 17)

December 1, 2020

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Respondent

AND TO: **EDWARD H. ROYLE AND PARTNERS LLP**
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**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Applicant

and

**ADAMSON BARBECUE LIMITED
and WILLIAM ADAMSON SKELLY**

Respondents

NOTICE OF APPLICATION

(Application under Section 9 of the *Reopening Ontario
(A Flexible Response to Covid-19) Act*, S.O. 2020, c. 17)

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing on a date and by a method to be fixed by the Court.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Issue Date: November 28, 2020

Issued
by

Diane Rhoden

Local registrar

Address of court office: 330 University Avenue , 8th floor
Toronto, ON
M5G 1R7

TO: ADAMSON BARBECUE LIMITED
176 Wicksteed Avenue
Toronto, ON M4G 2B6

Respondent

AND TO: WILLIAM ADAMSON SKELLY
42 Merritt Road
Toronto, ON M4B 3K5

Respondent

APPLICATION

1. THE APPLICANT MAKES APPLICATION FOR:

- (a) An Order pursuant to Section 9 of the *Reopening Ontario (A Flexible Response to Covid-19) Act*, S.O. 2020, c. 17 (“**ROA**”) restraining the respondents from contravening Regulation 82/20 (the “**Stage 1 Regulation**”);
- (b) The applicant’s costs in this application; and
- (c) Such further and other relief as this Honourable Court deems just.

2. THE GROUNDS FOR THE APPLICATION ARE:

The Parties

- (a) The applicant is Her Majesty the Queen in right of Ontario (the “**Crown**”).
- (b) The respondent Adamson Barbecue Limited (“**Adamson Ltd.**”) is a provincial corporation that is engaged in the operation of barbecue restaurants in the City of Toronto and the Town of Aurora.
- (c) The respondent William Adamson Skelly is the sole officer, director and the operating mind of Adamson Ltd.

Ontario’s COVID-19 Response Framework and the Stage 1 Regulation

- (d) The Stage 1 Regulation is an aspect of the framework developed by the province to ensure that public health measures are targeted and responsive in the urgent effort to limit the spread of COVID-19.
- (e) The framework seeks to maintain health system capacity and to protect vulnerable people, including those in long-term care. The framework, including the Stage 1 Regulation, was developed in consultation with health experts, including the Chief Medical Office of Health.

Application of the Stage 1 Regulation to the City of Toronto

- (f) On November 23, 2020, the City of Toronto was placed in Stage 1 of the province’s framework, making it subject to the Stage 1 Regulation. Among other things, the Stage 1 Regulation restricts restaurants in the city to providing take-out, delivery, and drive-through services. Restaurants are prohibited from permitting dining indoors.
- (g) The Stage 1 Regulation requires that anyone responsible for a restaurant ensure compliance with public health directives and other requirements set out in the Stage 1 Regulation, including the requirement that patrons wear masks and maintain a physical distance of at least two metres from others.

Significant and sustained contravention of the Stage 1 Regulation by the respondents

- (h) The respondents operate two restaurants in the City of Toronto. Both restaurants are subject to the Stage 1 Regulation. One restaurant is located at 7 Queen Elizabeth Boulevard (the “**Etobicoke Restaurant**”) and the other is located at 176 Wicksteed Avenue (the “**Leaside Restaurant**”).
- (i) Since Toronto was placed in Stage 1 of the province’s framework on November 23, 2020, the respondents have engaged in an intentional and persistent effort to violate the Stage 1 Regulation. Mr. Skelly has gone to significant lengths to publicize his opposition to the province’s approach to controlling the COVID-19 pandemic and his intention to deliberately flout the Stage 1 Regulation. Mr. Skelly has invited others to do the same.
- (j) The respondents’ efforts have focused on the respondents’ Etobicoke Restaurant. Among other contraventions of the Stage 1 Regulation, the respondents have opened the Etobicoke Restaurant to indoor dining, invited the public to congregate there in numbers, and have refused to enforce mask-wearing or physical-distancing measures by the hundreds of patrons who have attended since November 24, 2020.
- (k) Mr. Skelly has intentionally breached an order issued by Toronto’s Medical Officer of Health pursuant to section 22 of the *Health Protection and Promotion Act* requiring

the respondents to close the Etobicoke Restaurant and to ensure compliance with the Stage 1 Regulation.

- (l) Mr. Skelly has also intentionally breached efforts to prevent access to the Etobicoke Restaurant and thus ensure compliance with the Medical Officer of Health's order and the Stage 1 Regulation. Mr. Skelly went so far as to break through a wall adjacent to the Etobicoke Restaurant in order to access the restaurant and continue its operation in violation of the Stage 1 Regulation.
- (m) Mr. Skelly has been charged with provincial offences under the ROA and the *Health Protection and Promotion Act* as a result of his conduct. Mr. Skelly has stated that he intends to continue to operate in contravention of the Stage 1 Regulation despite those charges.
- (n) On November 27, 2020, Mr. Skelly was arrested and charged for, among other things, attempting to obstruct a peace officer. Individuals at the Etobicoke Restaurant continued to offer dine-in services following his arrest until the location was secured by the Toronto Police Service.

Authority for a restraining order under section 9 of the ROA

- (o) Section 9 of the ROA authorizes a judge of the Superior Court to issue an order restraining a person from contravening a continued section 7.0.2 order, which includes the Stage 1 Regulation.
- (p) Only the Crown or a member of the Executive Council is entitled to seek this relief and is permitted to do so without notice. The Court may grant a restraining order under section 9 notwithstanding any other remedy or penalty available.

Basis for a restraining order against the respondents under section 9 of the ROA

- (q) The respondents are responsible for the operation of a business in intentional and flagrant contravention of the Stage 1 Regulation. Mr. Skelly has made a point of expressly, publicly, and repeatedly stating his intention to continue violating provincial and municipal measures intended to protect public health. Through his actions, Mr.

Skelly has demonstrated a willingness and ability to follow through on this commitment regardless of the consequences.

- (r) The respondents have intentionally placed public health at risk. An order restraining the respondents from contravening the Stage 1 Regulation is justified in these circumstances. A restraining order is required in this circumstance to ensure the effectiveness of the province's response to the COVID-19 pandemic and ultimately to safeguard public health. Absent a restraining order, the respondents will place public health at risk again.
 - (s) Rules 1.04, 2.03, 14.05(2), and 38.01 of the Rules of Civil Procedure, R.R.O., Reg. 194;
 - (t) Sections 2 and 9 of the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020, S.O. 2020, c. 17;
 - (u) Sections 1(1), 3, and Schedule 1 of O. Reg. 363/20;
 - (v) Section 1 of Schedule 1, and Section 3 of Schedule 2 of O. Reg. 82/20;
 - (w) Section 1 of O. Reg. 458/20;
 - (x) Section 1 of the Health Protection and Promotion Act, R.S.O. 1990, c. H.7;
 - (y) Schedule 36 of R.R.O. 1990, Reg. 553; and
 - (z) Such further and other grounds as this Honourable Court may admit.
- 3. THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**
- (a) Affidavits, to be sworn;
 - (b) Such further and other evidence as this Honourable Court may admit.

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Date: November 27, 2020

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Her Majesty the Queen in right of Ontario

**HER MAJESTY THE QUEEN IN
RIGHT OF ONTARIO**
Applicant

and

**ADAMSON BARBECUE LIMITED
AND WILLIAM ADAMSON SKELLY**
Respondents

CV-20-00652216-0000⁸
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceedings commenced at Toronto

NOTICE OF APPLICATION

Application under Section 9 of the *Reopening Ontario (A Flexible Response to Covid-19) Act*,
S.O. 2020, c. 17

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Court File No.
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ONTARIO
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AFFIDAVIT OF STEFAN PRENTICE
(Affirmed on November 29, 2020)

I, **STEFAN PRENTICE**, of the City of Toronto, **AFFIRM AS FOLLOWS:**

1. I am Detective Sergeant Stefan Prentice (Badge No. 7585). I have been a Toronto Police officer since July 1997. Since March of this year, I have been assigned to the Emergency Management and Public Order Unit as the Investigative Chief of the Major Incident Command Cadre responsible for the COVID-19 pandemic response.

2. My responsibilities are to co-ordinate enforcement of the *Reopening Ontario (A Flexible Response to Covid-19) Act* (“**ROA**”) for the Toronto Police Service (“**TPS**”). As part of these duties I co-ordinate enforcement activities with City of Toronto agencies including Toronto Public Health (“**TPH**”) and Municipal Licensing and Standards (“**MLS**”).

3. In order to prepare this affidavit, I have spoken with police officers, TPH officers, MLS officers, and reviewed reports, notes, and video evidence. As such, I have knowledge of the matters



hereinafter deposed to. Where matters deposed to are based upon information provided to me by others, I have identified the source and verily believe that information to be true.

Toronto Police Service and Pandemic Response

4. Generally, throughout the pandemic, TPH and MLS have led the enforcement of emergency orders related to bars and restaurants. TPS has taken a supportive role in this area of enforcement by keeping the peace and ensuring public safety, while partnering with TPH and MLS as they conduct their enforcement duties.

5. Throughout the pandemic there have been a number of demonstrations organized to protest against regulations and rules that have been put in place by various levels of government to limit the spread of the COVID-19 virus.

6. The TPS recognizes the right to free speech and has taken the position that these protests will continue to be facilitated by us in a safe manner as an expression of free speech. Keeping the peace and ensuring public safety are our primary objectives. We are mindful that the demonstrations represent a risk to public safety and to public health in themselves and this risk is demonstrated and aggravated by the increasing number of cases reported by public health authorities.

7. The TPS response to such protests is a graduated public order response informed by the nature and quality of the risks in the circumstances. The response may range from simply monitoring an event to more complex operational plans that include resources from every area of the police service and co-ordination with municipal officials and external agencies. Part of the TPS response to these protests has included traffic management. This is required for the safety of the people gathered, but results in closed roads, traffic congestion, delays, and potentially dangerous driving by drivers frustrated by the closures.

Monday November 23, 2020

8. On Monday November 23, 2020, the City of Toronto was placed in Stage 1 of the provincial framework for re-opening due to COVID-19, making it subject to Ontario Regulation 82/20 under the ROA. As a result, among other restrictions, restaurants are not allowed to offer indoor or outdoor dine-in services, but can offer takeout, drive through and delivery.

9. On the same date, the owner of the restaurant business Adamson Barbecue Ltd. (“**Adamson BBQ**”), William Adamson Skelly, posted a video to the Adamson BBQ Instagram account, “@adamsonbarbeque”, announcing his intention to open up his location at 7 Queen Elizabeth Boulevard in Etobicoke (the “**Etobicoke Restaurant**”) for indoor dining. In the video, Mr. Skelly advised the Etobicoke Restaurant would be open for in-restaurant dining, “against provincial orders”, on Tuesday, November 24 at 11:00 a.m. Attached as **Exhibit “A”** is a copy of Adamson BBQ’s Instagram video featuring Mr. Skelly, posted on November 23, 2020, bearing the caption “enough- we’re opening. Starting Tuesday, November 24th, the Adamson Barbecue Etobicoke location will be open for dine-in service.”

Tuesday November 24, 2020

10. On Tuesday November 24, 2020, at approximately 11:13 a.m., TPS officers, along with members of TPH and MLS, attended the Etobicoke Restaurant. Officers witnessed Mr. Skelly providing dine-in service at the Etobicoke Restaurant. Officers reported that there were approximately 75 people gathered inside and outside the restaurant. At least 19 patrons were observed dining indoors at 4 different tables. Both patrons and restaurant staff inside and outside of the building were seen without masks or physical distancing.

11. Toronto's Medical Officer of Health, Dr. Eileen de Villa, issued an order under section 22 of the *Health Protection and Promotion Act* ("HPPA") requiring the Etobicoke Location to close.

12. On Tuesday evening, a post was made to the Adamson BBQ Instagram account depicting a cartoon of Mr. Skelly standing atop of TPS cruiser in front of an Adamson BBQ restaurant with a speech bubble stating "We're not closing", and a caption stating "Etobicoke. I am to sold out. Dine-in." Attached as **Exhibit "B"** is a copy of the Adamson BBQ Instagram post on November 24, 2020.

13. Over the course of the day, there were approximately 11 TPS officers deployed to the restaurant. There were other members supporting the deployment from Communications and Emergency Management.

Wednesday November 25, 2020

14. On Wednesday November 25, 2020, the police received further information that Mr. Skelly had disregarded the Public Health order and re-opened the Etobicoke Location to offer indoor dining. At approximately 11:00 a.m. TPS officers, along with members of TPH and MLS, again attended the restaurant. Officers reported observing a large crowd of approximately 50 people outside the restaurant protesting. There were another approximately 30-40 people inside the restaurant, including patrons dining indoors. Officers witnessed patrons being allowed to eat inside the restaurant, seated at tables that were insufficiently spaced to permit physical distancing. Officers witnessed many patrons and restaurant staff not wearing masks indoors, and failing to observe physical distancing, including in line. This activity was captured on officers' body-worn cameras. Attached as **Exhibit "C"** are still images from the body-worn camera footage captured by Constable Matthew Ho of 23 Division at Adamson BBQ on November 25, 2020, depicting

individuals standing line without physical distancing, and dining indoors. Attached as **Exhibit “D”** are three will say statements from TPS officers who attended on November 25, 2020, including Constable Ho.

15. Members from Toronto Public Health were on scene and laid charges against Mr. Skelly and Adamson BBQ. The Restaurant ultimately closed. According to Adamson BBQ, this was due to a food shortage rather than charges being laid. Police remained on scene to keep the peace.

16. That evening, a post was made to the Adamson BBQ Instagram account boasting that the company had been charged under provincial legislation, “[after] begging the authorities for hours” and only after having sold out for the day. Mr. Skelly stated that his “Lawyers are excited to dig in!” and encouraged other businesses to follow suit in re-opening in breach of Stage 1 regulations, promising to provide them with legal support. Mr. Skelly ended the message writing that the Etobicoke Restaurant would continue to be open for “dine-in, take-out or patio”. Attached as **Exhibit “E”** is a screen capture of Adamson BBQ’s Instagram video, posted on November 25, 2020.

17. Over the course of the day, there were approximately 10 Toronto Police Service officers deployed to the restaurant. There were other members supporting the deployment from Communications and Emergency Management.

18. Later that day, Dr. de Villa issued a directive to TPH, MLS, and the TPS under section 24 of the HPPA, to “take actions necessary” to restrict access to the premise Adamson Barbeque located at 7 Queen Elizabeth Boulevard, Toronto. The direction states, in part:

These actions include the engagement of third party services to remove existing locks and secure a magnetic lock, padlock, or other similar mechanism on all doors to the Premises,

the installation of cinder blocks or other blockades to prevent entry, and the posting of notices to notify members of the public about the Order.

Thursday November 26, 2020

19. On Thursday November 26, 2020, further to Dr. de Villa's direction, TPS officers supported TPH and MLS officials who attended and took possession of the Etobicoke Restaurant under the *Trespass to Property Act*. City officials changed the locks and sealed the doors to the dining and food preparation areas of the building. A rear area of the building, that was physically separated from the restaurant, was not subject to the Public Health order and was left unsealed.

20. That morning at approximately 7:00 a.m., a post was made to the Adamson BBQ Instagram account soliciting assistance to break open the restaurant, stating "Need locksmith & other hands at Etobicoke asap". Attached as **Exhibit "F"** is a copy of the post to the Adamson BBQ Instagram account in the morning of November 26, 2020.

21. Mr. Skelly attended the Etobicoke Restaurant that morning. Mr. Skelly gave a media interview that was posted to social media, where he stated his intention was to re-open the Etobicoke Restaurant, despite the doors being locked and sealed. He stated that his lawyers were present, "waiting until I get charged, see what happens, see if I get arrested and taken out today". It is apparent from the video that Mr. Skelly understood that if he attempted to re-open the Etobicoke Restaurant he could be charged with an offence. Attached as **Exhibit "G"** is a copy of a video posted to Facebook account "www.facebook.com/achilles.aquarius.7" by user "Nico King Nico" on November 26, 2020. The video depicts a media interview with Mr. Skelly at the Etobicoke Restaurant on November 26, 2020.

22. At approximately 9:00 a.m. thirty-four officers from 22 Division attended the Etobicoke Restaurant and set up barriers to restrict street access to vehicles. By mid-morning a crowd of

approximately 100 people had gathered in the restaurant parking lot. Officers from three other divisions across the City attended to assist with keeping the peace. There was considerable disruption to other nearby businesses, as reported in the news media.

23. Starting at noon, the crowd became increasingly aggressive. At that time, Mr. Skelly and associates were permitted to enter into an adjacent part of the building to access a purported second business, which had not been subject to the Public Health order. At that time, unknown to the police, Mr. Skelly and his associates used this opportunity to break through the wall separating the rear of the building from the restaurant in order to resume dining operations.

24. Mr. Skelly and his associates battered down the door and broke the locks that had been placed by City officials that morning. This activity was captured and posted to social media at the time it occurred. Attached as **Exhibit "H"** is a copy of a further video posted to Facebook by user "Nico King Nico" on November 26, 2020. The video depicts Mr. Skelly and associates breaking through the wall, bringing in food items, and breaking open the front door to the Etobicoke Restaurant and allowing in patrons for indoor dining.

25. Several people entered the Etobicoke Restaurant after the doors were breached, and officers observed food being distributed and numerous people inside the Etobicoke Restaurant dining inside. Officers attempted to prevent further entry and secure the perimeter of the building.

26. Shortly before 1:00 p.m., Christopher Saccoccia, a vocal member of Toronto's protest movement against public health measures, posted a video to his Instagram account "@meet.the.skys". Mr. Saccoccia is known to TPS, and was previously charged with breaching the *Quarantine Act* after returning to Canada from abroad. The video was taken from inside the Etobicoke Restaurant. Mr. Saccoccia stated, "We broke open the door. We're inside. We're



making brisket and there's nothing the police can do." The video depicts a large group of people standing closely, most without masks, lined up at the restaurant counter. Attached as **Exhibit "I"** is a copy of Mr. Saccoccia's video depicting the scene inside the Etobicoke Restaurant shortly after the doors were breached, which is followed by a subsequent video discussed below.

27. By 1:00 pm, the crowd outside the restaurant had grown to approximately 400 people. Additional officers, including mounted police, were requested to assist with crowd control.

28. As a result of Mr. Skelly breaching the perimeter established by police and damaging the locks placed on the restaurant doors by the City of Toronto, he was arrested by police and charged with obstructing police and mischief under \$5,000 under sections 129 and 430(4) of the *Criminal Code of Canada*, as well as trespassing under the *Trespass to Property Act*.

29. When Mr. Skelly was arrested and led away from the scene, the crowd inside and outside of the Etobicoke Restaurant became highly confrontational with police. Additional units including additional mounted police were arrived on scene. A crowd member was arrested for assaulting a police officer.

30. Even after Mr. Skelly's arrest, individuals remained inside the Etobicoke Restaurant and were dining indoors. At that time, Mr. Saccoccia posted a video to social media depicting patrons continuing to dine indoors at the Etobicoke Restaurant. Mr. Saccoccia remarked, "they did arrest Adam ... but we're still in here. We're still serving brisket, and we've still got people in-room dining". Attached as **Exhibit "I"** is a copy of Mr. Saccoccia's video posted to social media depicting continued indoor dining inside the Etobicoke Restaurant following Mr. Skelly's arrest, which is preceded by an earlier video discussed above.

31. At approximately 2:00 p.m. there were almost 80 TPS officers on scene at the Etobicoke Restaurant to keep the peace and manage the crowd.

32. At approximately 3:00 p.m., the crowd outside the Etobicoke Restaurant had largely dispersed. At approximately 6:00 p.m. the Etobicoke Restaurant was secured and the building was boarded up to restrict any further access. At the time, 8 TPS officers were on scene, and were soon replaced by paid duty officers requested by the City to secure the scene.

33. In total, 253 TPS members were involved at the Etobicoke Restaurant on November 26, 2020, including 140 uniformed officers, 18 mounted police officers and horses, and 41 public order officers. 12 paid duty officers were deployed, at the City's request, to secure the Etobicoke Restaurant throughout the night.

Friday November 27, 2020

34. On November 27, 2020, officers were deployed to the Etobicoke Restaurant to maintain security at the now-boarded up property. A crowd of around 60 people slowly grew throughout the day, becoming confrontational with police officers at approximately 1:00 p.m. At this time, there was an attempt to breach the building barriers, and officers were redeployed to reinforce the perimeter from inside.

35. From reports, the crowd began to disperse over the next 5 hours. No one entered the restaurant as a result of the police presence, and no arrests were made.

36. In total, 40 on-duty TPS members were involved at the Etobicoke Restaurant on November 27, 2020, followed by 8 paid duty officers, at the request of the City, in the evening.

37. In the evening, Mr. Skelly was released on a surety bail of \$50,000, on under conditions including: (1) that he not operate any business except in accordance with the ROA and HPPA and orders and regulations thereunder and orders by public health officers; (2) that he not be within 200 metres of any of the Adamson BBQ restaurant locations; and (3) that he not post or communicate on any social media platforms. Attached as **Exhibit "J"** is a copy of Mr. Skelly's Release Order (Form 11) under section 2 of the *Criminal Code*, dated November 27, 2020.

38. Shortly after his release, Mr. Skelly gave a statement to media outside of the police detachment regarding the terms of his release, and questioned the motives for having him barred from communicating on social media. Attached as **Exhibit "K"** is a copy the video of Mr. Skelly's statement to Global News, as published by Twitter user @KamilKaramali on November 27, 2020.

39. Again, paid duty officers were deployed to secure the Etobicoke Restaurant throughout the night.

Saturday November 28, 2020

40. On November 28, 2020, uniformed TPS members and paid duty officers continued to monitor the situation and to secure the Etobicoke Restaurant. TPS continues to dedicate resources to monitoring social media for activity by Mr. Skelly or others working for Adamson BBQ. The police are focused on additional protests that have arisen or grown in apparent response to Mr. Skelly's conduct, as well as potential additional breaches of the Stage 1 regulations.

41. In total, 21 on-duty TPS members were deployed to the Etobicoke Restaurant on November 28, 2020, followed by 11 paid duty officers in the evening. Paid duty officers continued to be deployed to secure the Etobicoke Restaurant throughout the night.

42. TPS anticipates deploying a further 5 paid duty officers to secure the Etobicoke Restaurant on November 29, 2020. Plans remain in place to escalate the response if the need arises.

Impact on Policing and Resources

43. The current resource deployment by the TPS at the Etobicoke Restaurant, and in response to Mr. Skelly and Adamson BBQ's activities more generally, is not sustainable. It is a significant draw on resources that impacts policing capacity throughout the City, resulting in TPS resources being reprioritized which would otherwise have been used to meet other pressing public safety needs, including responding to radio calls and engaging in crime prevention activities.

44. Further, Mr. Skelly's and Adamson BBQ's activities intentionally attract a significant number of other individuals who have displayed a complete disregard for public safety by gathering in close proximity, in large numbers, without any effort to wear masks or reduce potential COVID-19 transmission. The health and safety of the individuals involved, as well as TPS officers and municipal officials attending, has been and will continue to be placed at risk by these activities.

45. The public safety risk extends not only to the officers who may in fact become ill, but also to those whom the officers may come into close contact with while contagious. The TPS has already experienced situations where officers have been exposed to COVID-19 and were required to quarantine. Again, this creates a strain on remaining police resources.

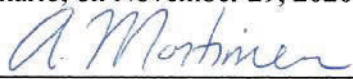
46. Notwithstanding the enforcement activities, sanctions and serious consequences Mr. Skelly and Adamson BBQ face to-date, he continues to encourage breaches of the Stage 1 regulations. On November 28, 2020, at a large public demonstration in Toronto, Mr. Skelly gave a statement on social media encouraging "every other business" to contravene Stage 1 regulations.

47. In his statement, Mr. Skelly minimized the potential penalties for breaching the ROA, stating that businesses would merely face fines and that he had raised hundreds of thousands of dollars to provide legal assistance to businesses who followed his example and contravened the Stage 1 regulation. Attached as **Exhibit “L”** is a copy of the video posted to Twitter on November 28, 2020, captioned “A message from owner of Adamson BBQ Adam Skelly to small business owners and the people who support him”. Attached as **Exhibit “M”** is a printout of a fundraiser on “ca.gofundme.com” as of November 29, 2020, indicating \$269,716 has been raised for the “Adamson BBQ Legal Defence Fund”.

48. Mr. Skelly and Adamson BBQ’s disregard for the safety of the police and the public, intentional defiance of the law, and Mr. Skelly’s continuing incitement of others to break the law, and continued threats to pursue and sustain this course of action place an unsustainable strain on police resources.


49. I make this Affidavit in support of the Crown’s application for a restraining order under section 9 of the ROA, and for no other or improper purpose.

AFFIRMED BEFORE ME by video
 conference in accordance with O. Reg.
 431/20 from the City of Toronto to the
 City of Kingston in the Province of
 Ontario, on November 29, 2020



ADAM MORTIMER
LSO No. 75618G
A Commissioner etc.

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 **DI Sgt 7585 T.P.S.**

STEFAN PRENTICE

This is Exhibit "A"
to the Affidavit of STEFAN PRENTICE,
affirmed before me by video conference in
accordance with O. Reg. 431/20 on
November 29, 2020



ADAM MORTIMER (75618G)

A Commissioner etc.

This exhibit has been provided separately as
“A - 2020.11.23 Adamson BBQ Instagram.mp4”

This is Exhibit "B"
to the Affidavit of STEFAN PRENTICE,
affirmed before me by video conference in
accordance with O. Reg. 431/20 on
November 29, 2020



ADAM MORTIMER (75618G)
A Commissioner etc.

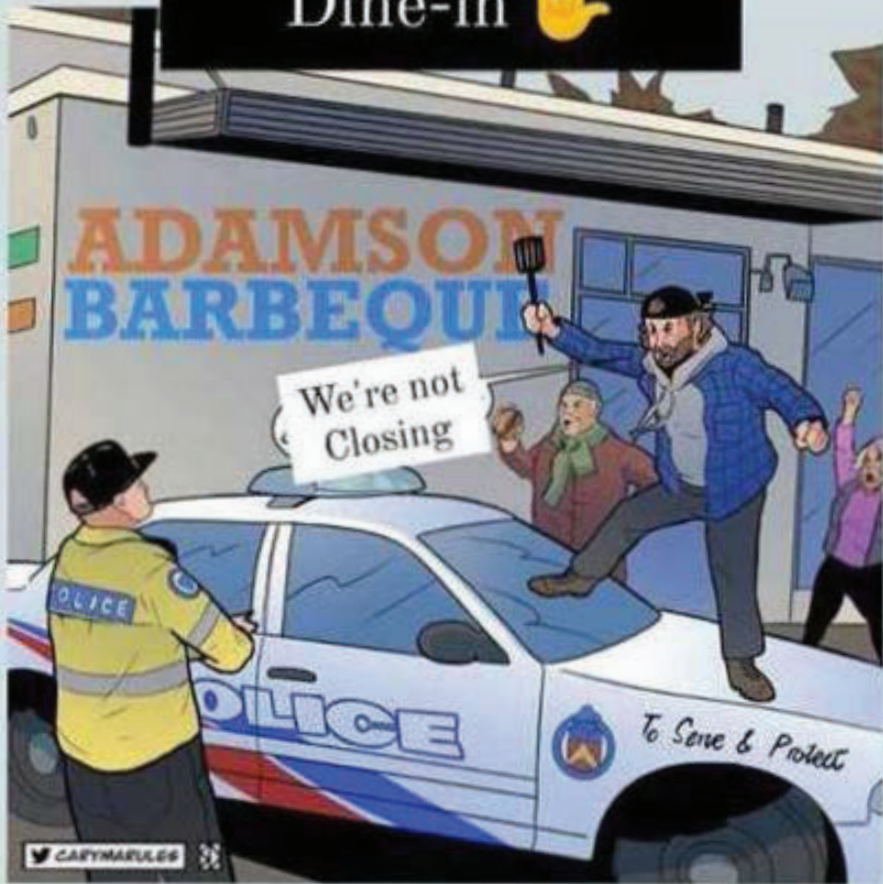


adamsonbarbecue · 7h

24



Etobicoke.
11am to sold out.
Dine-in 🤘



@carymasad

Send Message



This is Exhibit "C"
to the Affidavit of STEFAN PRENTICE,
affirmed before me by video conference in
accordance with O. Reg. 431/20 on
November 29, 2020



ADAM MORTIMER (75618G)
A Commissioner etc.

2020-11-25 11:34:29 -0500
AXON BODY 3 X73303350



2020-11-25 11:34:48 -0500
AXON BODY 3 X78303350



2020-11-25 11:34:45 -0500
AXON BODY 3 X73303350



2020-11-25 11:34:49 -0500
AXON BODY 3 X73303350



2020-11-25 11:35:09 -0500
AXON BODY 3 X73303350



2020-11-25 11:36:42 -0500
AXON BODY 3 X73303350



2020-11-25 13:05:08 -0500
AXON BODY 3 X73303350



This is Exhibit "D"
to the Affidavit of STEFAN PRENTICE,
affirmed before me by video conference in
accordance with O. Reg. 431/20 on
November 29, 2020



ADAM MORTIMER (75618G)
A Commissioner etc.



Daniel FERRITTO #11158
Police Constable #11158
Toronto Police Service
12 Division
Business Phone: (416) 808-1223

Wednesday, November 25th, 2020

Anticipated Evidence:

I am a member of the Toronto Police Service and have been so employed since December 17th, 2014. I perform my duties in uniform capacity with the Community Safety Response Unit.

I PC Daniel FERRITTO #11158 of 12 Division will say that on Wednesday, November 25th, 2020 at approximately 11:15 AM I was detailed to attend Adamson Barbecue located at 7 Queen Elizabeth Boulevard in regard to enforcing the Re-Opening Ontario Act as well as the City of Toronto Section 22 Closure Order as issued by the Department of Public Health Medical Officer.

I will say that upon arrival I noticed approximately 50 people outside the business as well as another 30-40 people inside the business. Some people were in line ordering food but most were standing around videotaping and protesting the lockdown.

I observed some people sitting down at tables eating their food including a male and female together. I cautioned them that they are in contravention of the Re-Opening Ontario Act by failing to comply with a continued section 7.02 order under Section 10(1)(a). The male and female eventually complied with the demand and left without incident.

I continued to observe staff members serving food to people ordering. Some people attempted to sit down and eat but eventually left after being further cautioned that they would be contravening the Re-Opening Ontario Act.

Signature



Luke GAVIN #11279
Police Constable #11279
Toronto Police Service
12 Division
Business Phone: (416) 808-1200

Wednesday, November 25th,2020

Anticipated Evidence:

I am a member of the Toronto Police Service and have been so employed since April 16th 2018. I perform my duties in uniform capacity with the Community Safety Response Unit.

I PC Luke GAVIN #11279 of 12 Division will say that on Wednesday, November 25th,2020 at approximately 11:15 AM I was detailed to attend Adamson Barbecue located at 7 Queen Elizabeth Boulevard in regard to enforcing the Re-Opening Ontario Act as well as the City of Toronto Section 22 Closure Order as issued by the Department of Public Health Medical Officer.

I will say that upon arrival I noticed approximately 50 people outside the business as well as roughly 30-40 people inside the business. The majority of people present standing around videotaping and protesting the lockdown. I observed others also in line to order food.

I observed roughly 5 individuals sitting down at tables eating the food purchased at the counter. I approached two males seated at a table eating. I advised and cautioned them that they are in contravention of the Re-Opening Ontario Act by failing to comply with a continued section 7.02 order under Section 10(1)(a) . Both males indicated they understood and complied with the direction, packing up and leaving without further incident.

I continued to observe staff members serving food to people ordering. Some people attempted to sit down but were cautioned that they would be contravening the Re-Opening Ontario Act and left.

Signature

**To: Timothy Crone
Inspector #4725
22 Division
Toronto Police Service**

**From: P.C. Ho #10178
Toronto Police Service
23 Division 'Neighbourhood Community Officer'
Toronto Police Service**

Re: Adamson BBQ

On Wednesday, November 25th, 2020 I was working a day shift with my escort P.C. MARTIN #9535 and I was driving scout car 2306. Our call sign was NC23H and our scheduled shift was from 0700 hours to 1800 hours.

At approximately 1126 hours my escort and I were detailed to assist officers already on scene at Adamson BBQ located at 7 Queen Elizabeth Boulevard.

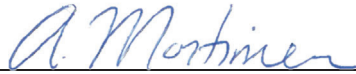
At approximately 1132 hours we arrived near the business that was congested with pedestrian and vehicular traffic. Numerous customers were lined up to order food. They were in close proximity to each other and many were not wearing masks.

Upon entering the business there were several customers seated (4-6 people) and eating at the dining table directly across from the ordering line. The larger dining area was empty and officers were standing by for further direction.

Our body worn cameras were activated and recording during our entire duration at the business. The owner of the store was charged accordingly by Bylaw Enforcement Officers.

See body worn camera S/N #X73303350 for further details and evidence.

This is Exhibit "E"
to the Affidavit of STEFAN PRENTICE,
affirmed before me by video conference in
accordance with O. Reg. 431/20 on
November 29, 2020



ADAM MORTIMER (75618G)
A Commissioner etc.



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After begging the authorities for hours, my corporation was finally charged under the provincial act (after we sold out).

Lawyers are excited to dig in!

No patrons were fined, turnout was incredible and we had a quick sell-out

Crowdfunding is being organized to provide defense to all small businesses opening in protest. Please reach out and we will mobilize everybody to your business and provide legal support 🙌

Etobicoke location will continue to open for lunch!
Dine-in, take-out or patio.
Tuesday to Sunday from 11am

We're all in this together ❤️🇨🇦

Send Message

