

**Mayor and Council**  
Town of Newmarket

*Traditional territories of the  
Wendat, Haudenosaunee and  
the Anishinaabe peoples*

*Treaty Land of the Williams  
Treaties First Nations*

Via Email:

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June 18, 2021

Dear Town Representatives,

**RE: Newmarket Business Bylaw 2020-31**

We are writing to oppose the proposed amendments to Newmarket Business Bylaw 2020-31, specifically opposing the inclusion of the proposed "Personal Wellness Establishment" criteria.

## About Pivot Legal Society

Pivot Legal Society is a non-profit legal organization based in Vancouver BC. Our organization continues to campaign for the rights of adult sex workers, foremost through the decriminalization of sex work. Decriminalization is a necessary step to protecting the safety and rights of sex workers by ensuring that they have full access to health, safety and human rights. All sex workers deserve to have their choices respected and be able to work safely, without fear of violence, discrimination and social stigma.

## Proposed Amendments to Newmarket Business Bylaw 2020-31

We understand that many Asian massage workers offer non-therapeutic and non-medical massage treatment in your community. The new amendments to the Newmarket Business Bylaw

will mandate workers be trained by accredited institutions, which often include English language skills requirements. We are concerned about the repressive and discriminatory impact of the Town of Newmarket's proposed policy on Asian sex workers.

The adoption of this policy will create barriers for Asian workers in massage parlours in Newmarket. Low-income, non-English speaking Asian workers face barriers in attending college and obtaining the credentials that would be required to work in an approved Personal Wellness Establishment.

## **Addressing anti-Asian racism**

The Asian community is already heavily hit by the COVID-19 pandemic and facing anti-Asian racism. The Town of Newmarket should not impose extra social and economic barriers to prevent them from working, which may lead to the shutdown of Asian massage parlours.

The proposed bylaw will be perceived as anti-Asian and racist because Asian workers and businesses will be affected disproportionately. Although the bylaw claims an exception is available for "non-Western practice," in reality that application for exception is a high-barrier process. To obtain an exception, an establishment will be required to collect extensive documentation and be interviewed by town staff.

The criteria set out for a "Personal Wellness Establishment" enact a set of racist and xenophobic hurdles, and were arrived at without meaningful community consultation. Asian massage workers and sex workers should not be left out of policy decisions that directly impact their livelihood.

## **Municipal policies should reflect best practices**

We understand that the amendments to this proposed policy in Newmarket are informed by anti-trafficking intentions. The proposed regulations, however, do not augment health and safety practices that could in fact benefit and improve the occupational health and safety of massage parlor workers. Protecting the health and safety of sex workers is constitutionally mandated by the *Canadian Charter of Rights and Freedoms*.<sup>1</sup>

Regarding the restrictive provisions that create adverse working conditions for massage workers, Lam et al. (2021) note that "[i]ncreased policing, law enforcement, and government control create new forms of distress, pain, and hardship for marginalized communities... Migrant Asian massage workers, as revealed through our survey and ethnographic data, have suffered immensely from oppressive pre-existing and COVID-19-specific policies that deny them access to government benefits, expose them to health risks, and bring violence into their workplace and everyday lives through surveillance and police raids."<sup>2</sup>

Rather than rely on outdated and prohibitionist approaches to sex work, we encourage local elected officials to engage with the ample public health research and data that outlines best

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1 Canada (Attorney General) v. Bedford, 2013 SCC 72

2 Elene Lam et al., "The Double-Edged Sword of Health and Safety: COVID-19 and the Policing and Exclusion of Migrant Asian Massage Workers in North America", online: (2021) Social Sciences (Basel), 10:157, available at <https://www.mdpi.com/2076-0760/10/5/157/pdf>

practices regarding indoor sex work. As researchers Bungay and Guta (2017) note, "[regulations] should be extended to include the physical, economic, policy, and social environments, including protocols for customer condom use and substance use behavior and payment."<sup>3</sup>

Instead of further restricting the income-generation activities of local workers, Newmarket should treat sex workers in a fair and unbiased manner and promote sex worker safety, dignity, and well-being.

## **Creating fair and effective bylaws and policies**

The Town of Newmarket must speak with Asian workers in massage parlors in order to reflect their interests in any local bylaws and public policy decisions. These workers are the experts in the conditions they face, and they should inform law- and policymakers regarding proposed solutions.

We urge the Town of Newmarket to adopt an anti-racist lens to this bylaw: remove the requirement of having accredited credentials to work in the proposed bylaw so that Asian workers can continue to work and massage parlours can continue to operate and serve the community. Rather than advance stigmatizing and discriminatory policy, the Town must directly consult with local massage workers to address any adverse health, social, economic, and cultural conditions they are facing.

Sincerely,

**Pivot Legal Society**

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3 Vicki Bungay & Adrian Guta "Strategies and Challenges in Preventing Violence Against Canadian Indoor Sex Workers.", online: (2018) American Journal of Public Health, 108, doi: 393\_398, <https://doi.org/10.2105/AJPH.2017.304241>