

To: London City Council  
From: Naomi Sayers  
Date: October 2, 2017  
Re: Municipal Regulation of Body Parlours/Strip Clubs in London, Ontario

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Dear City of London,

Please find attached my Addendum which outlines my initial concerns regarding the Municipal Regulation of Body Parlours/Strip Clubs in London, Ontario.

I am writing to ensure that London City Council (the “Council”) addresses actual concerns from people living/working within the sex trade when the Council makes their decision on the above matter.

I have reviewed the reports from other lawyers representing persons in the sex trade industry and I emphasize their concerns relating to the impact of the public processes on the lives of sex trade workers. I wish to further highlight the Supreme Court of Canada (SCC)’s decision on a similar issue. This decision is often referred to as the “Sex Workers United Against Violence” decision or the “public interest standing” decision, wherein the SCC highlighted the problems with the public processes on sex trade workers’ privacy, safety and well-being especially in the context of sex trade workers’ vulnerability as marginalized persons.

When a public process demands a sex trade worker “out” themselves, by linking their legal identity with their sex trade identity, those processes are undermined—only certain individuals may participate.

Writing for Canada’s Highest Court, Justice Cromwell outlines the concerns at paragraph 71:

The record shows that there were no sex workers in the Downtown Eastside neighbourhood of Vancouver willing to bring a comprehensive challenge forward. They feared loss of privacy and safety and increased violence by clients. Also, their spouses, friends, family members and/or members of their community may not know that they are or were involved in sex work or that they are or were drug users. They have children that they fear will be removed by child protection authorities. Finally, bringing such challenge, they fear, may limit their current or future education or employment opportunities.

The SCC recognized the risk of sex trade workers participating in public processes as individuals and I urge Council to consider their processes in the lives and protection of sex trade workers. I ask, then, What is the justice for when not everyone may participate?

The Council must remember that their bylaws may conflict with federal laws but they must not be unconstitutional. Again, I emphasize Council’s broad by-law making powers which have been consistently upheld as constitutional.

More importantly, Council must not lose sight of the evidence supporting *Canada (AG) v Bedford*, 2013 SCC 72 (“*Bedford*”). This decision reviewed over 25,000 pages of evidence. The evidence included dead sex trade workers. Council must not wait for more dead sex trade workers to determine whether their bylaw making and enforcement efforts are aligned with the federal legislation, or Bill C-36, the bill passed in reply to *Bedford*.

While Bill C-36 may not have any present constitutional challenges, the people living and working in the sex trade have previously spoken out about the harms of criminalization—the harms identified in *Bedford*, the harms that Bill C-36 re-creates. The Council must ensure they set the standard for other municipalities by not waiting for the “evidence”—more dead sex trade workers. I urge Council to listen to those impacted by bylaws that prevent safe(r) work places.

Sincerely,

Naomi Sayers

## ADDENDUM

To: London City Council  
From: Naomi Sayers  
Date: September 11, 2017  
Re: Municipal Regulation of Body Parlours/Strip Clubs in London, Ontario

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### **Context: Providing a Critical Perspective on Prostitution in London, Ontario**

My name is Naomi Sayers and I am an alumna of University of Ottawa's Faculty of Law and Western University's Faculty of Social Science. I lived and worked in Southwestern Ontario region, for nearly a decade. I moved to London, Ontario from Northern Ontario in the context of the sex trade. While in London, Ontario, I worked throughout Southwestern Ontario at many clubs in different jurisdictions. I have experience as an independent escort throughout Southwestern Ontario, across Canada and some states. I am also an Indigenous woman and a future lawyer who is frequently consulted by many organizations and policy makers on prostitution policy and law reform. I also have a forthcoming book chapter on municipal regulation of prostitution (2018). Accordingly, I provide a critical perspective to understanding the needs of vulnerable population groups who have experiences in the sex trade.

### **Full Disclosure: Speaking as an Individual**

I do not speak on behalf of an organization. However, I do not sit alone in these words I share with you. There are many people who I remain in contact with in London, Ontario including organizations who advance the right for people in the sex trade to live free from violence. It is important to remember that this is a constitutional right, to live free from state-imposed violence including the right to have safe places to work.

### **Shared Principles: Creating Safe Communities and Protecting Vulnerable Population Groups**

I commend the City of London for undertaking such important discussions: Balancing a community's right to a safe community for everyone while protecting vulnerable population groups, like women in the sex trade.

We all agree that a community should be safe for everyone but we also seek to protect vulnerable population groups. However, I urge you to consider the long-term effects of municipal regulation of prostitution (or the sex trade) especially in the context of the Missing and Murdered Indigenous women and girls.

### **Two Broad Considerations in Municipal Regulation of Prostitution in London, Ontario**

Since living in London, Ontario, I realize how much the city cares about its community members. In comparison to similarly sized cities, London, Ontario exudes love, kindness, and compassion for all its members, regardless of each other's experiences and lived realities. This is why I urge the City Council of London, Ontario to consider these two items when making a decision when it comes to the municipal regulation of prostitution in London, Ontario:

- 1) Effects of displacing vulnerable population groups especially Indigenous women; and
- 2) Effects on preventing safe(r) work environments that provide security in many forms.

1) Effects of displacing vulnerable population groups especially Indigenous women.

In 2013, the Supreme Court of Canada made it clear that a state-actor could be responsible for the violence in the lives of sex trade workers (See *Canada (AG) v Bedford*, 2013 SCC 72, “*Bedford*”). Specially, Canada’s highest court held “The violence of a john does not diminish the role of the state in making a prostitute more vulnerable to that violence.” (*Bedford* at para 89). Immediately following this decision, our former Prime Minister, Stephen Harper, introduced and passed legislation that ignored over 25,000 pages of evidence introduced throughout this constitutional challenge. Some of the evidence introduced in this constitutional challenge came directly from a group of sex trade workers who live/work in Vancouver’s Downtown East Side (“DTES”). This group is known as Sex Workers’ United Against Violence Society (“SWUAV”).

SWUAV, which includes Indigenous persons, has worked tirelessly in Vancouver with the aim to end violence against sex trade workers. Their work primarily stems from the case of Robert Pickton, including inadequate police investigation involving Pickton’s victims. More importantly, however, their work calls attention to the results from the British Columbia’s Missing Women Commission of Inquiry (the “Inquiry”). The results from the Inquiry highlight the fact that the criminal regulation of prostitution contributes to the marginalization of already-marginalized women.<sup>1</sup>

While municipalities are free to regulate prostitution, including for the purposes of creating safe communities free from nuisances, London, Ontario City Council must consider the larger societal context in which prostitution and other forms of sex trade work exists in Canadian society. Preventing sex trade workers from working in a secure environment effectively displaces these individuals to unsafe work environments, creating the opportunity for exploitation and violence to occur.<sup>2</sup> When over-regulation of the industry takes place, including limiting the number of places where sex trade workers can work, the Supreme Court of Canada held that this effect is enough to violate a sex trade worker’s right to live free from state violence (See *Bedford* at para 122).

All municipalities must enact policies that conform to the constitution (See, for example, *R v Keshane*, 2012 ABCA 330<sup>3</sup>), including a sex trade worker’s right to live free from state-imposed violence, like that described by Canada’s highest court. Though courts continuously hold a municipality’s broad bylaw making powers as constitutional, even if such bylaw traverses into criminal regulation, Canada’s highest court held that the effects of a state action on one person is enough to establish the harm. Explicitly, it is not the amount of people that a law may protect in the future; rather, it is the effect on one person in the present.

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<sup>1</sup> See, “Forsaken”, online: <http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-ES-web-RGB.pdf>.

<sup>2</sup> See *Canada v Bedford*.

<sup>3</sup> While this decision is an Alberta decision, it is persuasive only in application to Ontario’s municipalities given it is a Court of Appeal decision.

## 2) Effects on preventing safe(r) work environments that provide security in many forms

When I think of example of a safe(r) work environment in the London region, I am reminded of the time I was stabbed by another sex trade worker in one of the places I worked in. Immediately following this incident, I knew that the only place I could feel safe was at work because this worker was not allowed back into the establishment.

Another example was after a sexual assault: I knew I could feel safe at one of these establishments after the man who assaulted me showed up to my work. I immediately told my manager and my manager kicked him out. In these instances, however, I never felt safe enough to call the police. It is important that appropriate regulation of these places take place while also turning your mind to the fact that, for some people, these are the only safe places in the city for them to work.

For the many women that I encountered in my experiences, I will always remember how much we cared for each, looked out for each other and provided much needed support when the rest of the world sees the work as degrading or even downright disgusting. It was these safe(r) places wherein I worked with other women in the presence of security and managers who sometimes acted as security that helped kept me safe or made me feel safe when I needed safety the most. I agree, however, that separate bylaw licenses should exist for Adult Live Entertainment Parlour and Adult Entertainment Body-Rub Parlour since this creates the right for individuals in the sex trade to limit the kind of work they engage in.

It is important to remember that the women who work in the sex trade are also community members in London, Ontario. It is important to remember that, for some of these women, this may be the only safe place to work. However, it is also important to remember that not everyone wants to work in the sex trade and that London, Ontario should continue to provide supports for these women. However, preventing safe(r) work environments does not build a safe community; rather, it limits a community's possibility to ensure that everyone, including individuals in the sex trade, feel safe and live free from violence. As Canada's highest court stated, "The violence of a john does not diminish the role of the state in making a prostitute more vulnerable to that violence." The municipality of London, Ontario plays a role in making the prostitute more vulnerable to the violence of johns when it hinders safe(r) work environments including the choice to work indoors with other workers in the presence of security and managers who may act as security.

In sum, I agree that the City of London should ensure all Adult work places follow its processes and procedures, including maintaining safe work environments (i.e. meeting certain standards during inspections). However, I propose that the City of London work with such entities to ensure that these places do not prevent sex trade workers from working in secure and safe places by closing them down in their entirety.

Please contact me at my email for further discussion or arrangements for further comments.

Miigwetch/Thank You,

Naomi Sayers