

Holder, Laura (MAG)

From: HRTO-Registrar (MAG)
Sent: May 21, 2021 10:22 AM
To: Holder, Laura (MAG)
Cc: Levy, Sivan (MAG)
Subject: FW: Ben Weigl v. Devonshire Mall - HRTO File No. 2020-42113-I [MTDMS-Legal.FID9229228]
Attachments: 48979260_1_Form 2 - Response to Application - Cushman & Wakefield and Weigl .PDF; 49314082_1_Response to Weigl HRTO Application - Schedule A .PDF; 49313787_1_Global Inclusion and Diversity - English .PDF

Importance: High

From: Hardy, Monica <mhardy@millerthomson.com>
Sent: May 21, 2021 10:17 AM
To: HRTO-Registrar (MAG) <hrto.registrar@ontario.ca>
Cc: MacGillivray, Michelle <mmacgillivray@millerthomson.com>
Subject: FW: Ben Weigl v. Devonshire Mall - HRTO File No. 2020-42113-I [MTDMS-Legal.FID9229228]
Importance: High

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

ON BEHALF OF MICHELLE MACGILLIVRAY

Good morning. We are counsel for the Respondent in this matter. Our client, received a communication from the HRTO dated May 13, 2021 advising that our Form 2 and enclosures were not received by the Tribunal. Please see the email below from September 29, 2020 filing our Form 2 and attachments. A voice mail message was left today with Laura Holder, who we understand is managing this file for the HRTO, to this effect as well.

Thank you.

Kind regards,
Monica Hardy
Assistant to Michelle MacGillivray

MONICA HARDY
Legal Assistant

Pronouns: She, Her, Hers

Miller Thomson LLP
Services provided through Miltom Management LP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, Ontario M5H 3S1
Direct Line: +1 416.595.8590
Fax: +1 416.595.8695

Email: mhardy@millerthomson.com
millerthomson.com



Please consider the environment before printing this email.

[Our COVID-19 preparedness and support commitment](#)

From: Hardy, Monica
Sent: Tuesday, September 29, 2020 4:49 PM
To: 'HRTO-Registrar (MAG)' <hrto.registrar@ontario.ca>
Cc: MacGillivray, Michelle <mmacgillivray@millerthomson.com>
Subject: Ben Weigl v. Devonshire Mall - HRTO File No. 2020-42113-I [MTDMS-Legal.FID9229228]

Please find attached the Respondent's Form 2 – Response to Application, Schedule A and documents.

Kind regards,
Monica Hardy

MONICA HARDY
Legal Assistant

Miller Thomson LLP
Services provided through Miltom Management LP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, Ontario M5H 3S1
Direct Line: +1 416.595.8590
Fax: +1 416.595.8695
Email: mhardy@millerthomson.com
millerthomson.com



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[Our COVID-19 preparedness and support commitment](#)

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Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

(Disponible en français)

www.hrto.ca

How to Respond to an Application Where You Are Named as a Respondent

Use this form if you have been named as a respondent in a human rights application under section 34 of the *Human Rights Code*.

If you fail to respond to the Application, you may be deemed to have accepted all of the allegations in the Application, and the Tribunal may proceed without further notice to you.

Before you start:

1. Read the questions and answers below.
2. Download and read the [Respondent's Guide](#) from the Tribunal's website www.hrto.ca.
If you need a paper copy or accessible format contact us at:

Human Rights Tribunal of Ontario
655 Bay Street, 14th floor
Toronto, Ontario M7A 2A3

Phone: 416-326-1312
Fax: 416-326-2199
TTY: 416-326-2027
Email: hrto.registrar@ontario.ca
Website: www.hrto.ca

Toll-free: 1-866-598-0322
Toll-free: 1-866-355-6099
Toll-free: 1-866-607-1240

The Tribunal has other guides and practice directions to help all parties to an Application understand the process. Download copies from the Tribunal's website or contact us.

3. Complete each section of the Response form that applies to you. As you fill out each section, refer to the instructions in the [Respondent's Guide](#).

Questions about Responding to an Application

The following questions and answers are provided for general information. They should not be taken as legal advice or a determination of how the Tribunal will decide any particular application.

What happens if I fail to complete a Response Form?

You may be deemed to have accepted all the allegations. The Tribunal may deal with the Application without any further notice to you.

What is the time limit for responding?

Respondents must file a completed Response form no later than **thirty-five (35) days** after the Tribunal sends them a copy of the Application. The cover letter from the Tribunal gives you the exact date.

Are there defences to discrimination under the *Human Rights Code*?

Yes, there are some defences and exemptions in the *Code*. Please see the [Respondent's Guide](#). If you believe one of these applies, please explain how when you fill out the Response form.



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Can the Tribunal deal with an application where the facts and issues have been dealt with or are being dealt with in another proceeding?

The *Code* has special rules depending on what the other proceeding is and at what stage the other proceeding is at. Read the [Respondent's Guide](#) and get legal advice if:

1. You are currently involved in, or were previously involved in a civil action based on the same facts and the applicant asked for a human rights remedy; **or**
2. A complaint was ever filed with the Ontario Human Rights Commission based on the same subject matter; **or**
3. You are currently involved in, or were previously involved in another proceeding (for example, a union grievance based on the same facts.

You must file a Response even if you believe that the Tribunal should defer the the Application or that the Application is outside the jurisdiction of the Tribunal, except where you allege the issues in dispute fall within exclusive federal jurisdiction.

Learn more

To find out more about human rights in Ontario, visit www.ohrc.on.ca or phone 1-800-387-9080.



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Note: Complete all parts of this form, using the [Respondent's Guide](#) for help. If your form is not complete, the Tribunal may return it to you. At the end of this form, you will be required to read and agree to a declaration that the information in your Response is complete and accurate (if you are a lawyer or legal representative assisting a respondent with this Form 2, please see the **Practice Direction On Electronic Filing of Applications and Responses By Licensed Representatives**).

Respondents must file a completed Response form no later than **thirty-five (35) days** after the Tribunal sends them a copy of the Application. The cover letter from the Tribunal gives you the exact date.

Tribunal File Number	2020-42113-I
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Contact Information for the Respondent

Respondent Contact Information

Please choose the type of Respondent: Organization Respondent Individual Respondent

1. Respondent Contact Information - Organization

Contact information for a responding organization, such as a corporation, association, or group. Please complete both this section and Question 3.

Full Name of Organization Devonshire Mall

Organization Type:

- Corporation
- Partnership
- Sole proprietorship
- Unincorporated business/organization
- Other (specify):

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Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Name of the person within this organization who is authorized to negotiate and bind the organization with respect to this Application.

First (or Given) Name Chris		Last (or Family) Name Savard		Title Associate Director	
Street # 3100	Street Name Howard Avenue			Apt/Suite	
City/Town Windsor		Province ON	Postal Code N8X 3Y8	Email Chris.Savard@cushwake.com	
Daytime Phone 1.519.966.1319	Cell Phone		Fax 1.519.966.0910	TTY	

What is the best way to send information to you?

(If you check email, you are consenting to delivery of documents by email) Mail Email Fax

Is this Response being filed on behalf of any other respondent? Yes No

3. Representative Contact Information

Complete this Section only if you are authorizing a lawyer or other Representative to act for you.

I authorize the organization and/or person named below to represent me.

My representative is:

<input checked="" type="checkbox"/> Lawyer	LSUC #	51351F
<input type="checkbox"/> Paralegal	LSUC #	

Other- please specify the Nature of Exemption from licensing requirements in the text box below:
(e.g. Unpaid family member or friend)

For further information, see the Tribunal's Policy on Representation before the HRTO at www.hrto.ca.



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

First (or Given) Name Michelle	Last (or Family) Name MacGillivray
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Organization (if applicable)
Miller Thomson LLP

Street # 40	Street Name King Street West, Scotia Plaza	Apt/Suite 5800
-----------------------	--	--------------------------

City/Town Toronto	Province ON	Postal Code M5H 3S1	Email mmacgillivray@millerthomson.com
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Daytime Phone 416.595.8609	Cell Phone	Fax 416.595.8695	TTY
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What is the best way to send information to your representative?
(If you check email, you are consenting to delivery of documents by email) Mail Email Fax

Contact Information - Additional Respondent(s) and Affected Person(s)

Please complete this selection if you believe another person or organization should be named as a respondent or given notice as an affected person(s).

4. Contact Information - Additional Respondent

If there is another organization or person who is not already named as a respondent on the Application form and who you believe should be named as a respondent, provide their contact information here. See the Tribunal's **Practice Direction on Naming Respondents** for more information on how to correctly name a potential respondent.

Please choose the type of respondent: Organization Respondent Individual Respondent

Additional Respondent Contact Information - Organization

Full Name of Organization



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Name of Contact Person from the Organization

First (or Given) Name		Last (or Family) Name		Title	
Street #	Street Name			Apt/Suite	
City/Town		Province	Postal Code	Email	
Daytime Phone	Cell Phone	Fax		TTY	

Add Another Respondent

5. Contact Information - Affected Person

If there is any other organization (such as a union or occupational association responsible for collective bargaining) or person who is not already named as an affected person on the Application form and who might be affected by this Application to the Tribunal, provide their contact information here.

Please choose the type of affected person: Organization Contact

Affected Person Contact Information - Organization

Full Name of Organization

Name of Contact Person from the Organization

First (or Given) Name	Last (or Family) Name	Title
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Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Street #	Street Name			Apt/Suite
City/Town	Province	Postal Code	Email	
Daytime Phone	Cell Phone	Fax	TTY	

Add Another Affected Party

Request for Early Dismissal of the Application

6. Request for Dismissal - without Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because one of the four situations below applies. Put an "X" in the box that applies. Please see the [Respondent's Guide](#).

I request that the Tribunal dismiss this Application because:

- A claim based on the same facts has been filed in civil court, requesting a remedy based on the alleged human rights violation. (Attach a copy of the statement of claim and the court decision, if any. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- A complaint was filed with the Ontario Human Rights Commission based on the same, or substantially the same, facts as this Application. (Attach a copy of the complaint and the decision, if any. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- The applicant signed a full and final release with respect to the same matter. (Attach a copy of the release. Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)
- The issues in the Application are within exclusive federal jurisdiction. (Include all your submissions in support of your request to dismiss the Application on this basis. The Tribunal may decide your request based only on your submissions.)

Note: If you put an "X" in any of the boxes above, go to Question 20. Except in these four situations, or as otherwise directed by the Tribunal, requests to dismiss an Application will not be considered without a complete response.



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

7. Request for Dismissal under s. 45.1 of the Code - with Full Response

Complete this section only if you are requesting that the Tribunal dismiss the Application because another proceeding has in whole or in part appropriately dealt with the substance of the Application. Put an "X" below if you are making this request. Please see the [Respondent's Guide](#).

a) I request that the Tribunal dismiss the Application because another proceeding has in whole or in part appropriately dealt with the substance of the Application. (Attach a copy of the decision)

b) Please name the other proceeding:

c) Explain why you believe the other proceeding has in whole or in part appropriately dealt with the substance of the Application.

Note: You must complete the entire Response form and attach a copy of the document that started the proceeding and a copy of the decision.

Request to Defer the Application

8. Request to Defer

Complete this section only if the facts of the Application are part of another proceeding that is still in progress.

a) Describe the other proceeding:

<input type="checkbox"/> A union grievance	Name of Union:
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Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

A claim before another board, tribunal or agency

Name a board, tribunal, or agency:

Other

Explain what the other proceeding is:

b) Are you asking the Tribunal to defer (postpone) the Application until the other proceeding is completed?
(Attach a copy of the document that started the other proceeding)

Yes

No

Responding to the Allegations in the Application

9. Responding to the Allegations

Please summarize the facts and defences that support your Response to this Application. See the [Respondent's Guide](#).

Please include as part of your response:

- any submissions you make that the Application is outside the Tribunal's jurisdiction;
- what allegations in the Application you agree with;
- what allegations in the Application you disagree with;
- any additional facts that you intend to rely on; and
- any defences that you intend to rely on.

See Schedule "A."

10. Exemptions

Complete this section only if you are relying on one of the exemptions found in the *Code*. See the [Respondent's Guide](#).

a) What exemption in the *Code* do you believe applies to this Application?



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

b) Please explain why you believe the exemption applies:

11. Knowledge of the Events

a) When and how did you first become aware of the events described in the Application?

See Schedule "A."

b) How did you respond and what was the outcome?

See Schedule "A."

12. Disability and Employment

Complete this section only if the applicant alleges that they experienced discrimination in employment on the ground of disability. See [Respondent's Guide](#).

a) Did you know about the applicant's particular needs before seeing the Application?

Yes

No

b) What are the requirements (essential job duties) of the position in question?

Not applicable.



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

c) Do you have a written policy, job description or other documentation that describes the requirements of the job?	<input type="radio"/> Yes	<input type="radio"/> No
d) Was the applicant unable to perform the requirements of the job because of their disability?	<input type="radio"/> Yes	<input type="radio"/> No (Go to 13)

Note: If you said "Yes" to Question 12c, you must attach a copy of the policy, job description or other document that describes the requirements of the job.

Questions About Internal Human Rights Policies

13. Internal Human Rights Policies

Complete this section only if the respondent is an organization. Please see the [Respondent's Guide](#).

a) Do you have a policy related to the type of discrimination alleged in the Application?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
b) Do you have a complaint process to deal with discrimination and harassment?	<input checked="" type="radio"/> Yes	<input type="radio"/> No (Go to 14)

Note: You must attach a copy of the policy, complaint process, or the document that started the complaint, and the decision, if any.

Mediation

14. Choosing Mediation to Resolve the Application

Mediation is one of the ways the Tribunal tries to resolve disputes. It is a less formal process than a hearing. Mediation can only happen if both parties agree to it. A Tribunal Member will be assigned to mediate the Application. The Member will meet with you to talk about your Response. The Member will also meet with the applicant and will try to work out a solution that both sides can accept. If Mediation does not settle all the issues, a hearing will still take place and a different Member will be assigned to hear the case. Mediation is confidential.

Do you agree to try mediation? Yes



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Documents that Support Your Response

15. Important Documents You Have

If you have documents that are important to your Response, list them here. List only the most important. Indicate whether the document is privileged. Please see the [Respondent's Guide](#).

Note: You are not required to send copies of your documents at this time. However, if you decide to attach copies of the documents you list below to your Response, they will be sent to the other parties to the Application along with your Response.

Document Name	Why It Is Important To My Response
Global Policy on Inclusion and Diversity	See Schedule "A."
See Schedule "A."	
The Respondent reserves the right to file additional documents at a later date.	

Add more Documents

16. Important Documents the Applicant Has

If you believe the applicant has documents that are important to your Response, that you do not have, list them here. List only the most important.

Document Name	Why It Is Important To My Response

Add more Documents

17. Important Documents Another Person or Organization Has

If you believe another person or organization has documents that are important to your Response, that you do not have, list them here. List only the most important.

Document Name	Why It Is Important To My Response	Name of Person or Organization Who Has It



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

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Add more Documents

Confidential List of Witnesses

18. Witnesses

Please list the witnesses that you intend to rely on in the hearing. **Note:** The Tribunal will not send this list to the applicant. See the [Respondent's Guide](#).

Name of Witness	Why This Witness Is Important To My Response

Add more Witnesses

Other Important Information

19. Other Important Information the Tribunal Should Know

Is there any other important information you would like to share with the Tribunal?

See Schedule "A."



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Checklist of Required Documents

20. Documents from Questions 6 to 13

Put an "X" in the box beside the documents that you are required to send with your Response. Put the Tribunal File Number on each document.

- Copy of a statement of claim and the Court decision, if any (from Question 6)
- Copy of a complaint filed with the Ontario Human Rights Commission and decision, if any (from Question 6)
- Copy of a full and final release that the applicant signed dealing with same matter (from Question 6)
- Submissions in support of a Request for Dismissal without Full Response (under Question 6)
- Copy of a decision from another type of proceeding that appropriately dealt with the substance of the Application (from Question 7)
- Copy of a document that started another type of proceeding based on the same facts (from Question 7 & 8)
- Copy of the policy, job description or other document that describes the requirements of the job (from Question 12)
- Copy of your organization's policy on discrimination or harassment relevant to this Application (from Question 13)
- Copy of your organization's complaints process relevant to this Application (from Question 13)
- Copy of the applicant's internal complaint (from Question 13)
- Copy of the decision from the internal complaint process (from Question 13)



Response to an Application under Section 34 of the *Human Rights Code* (Form 2)

Declaration and Signature

21. Declaration and Signature

Declaration:

To the best of my knowledge, the information in my Response is complete and accurate.

Signature Date (dd/mm/yyyy)

29/09/2020

Please check this box if you are filing your response electronically. This represents your signature.
You must fill out the date, above.

Accommodation Required

If you require accommodation of Code related needs please contact the Registrar at HRTO.Registrar@ontario.ca or

Phone: 416-326-1312 Toll-free: 1-866-598-0322

Fax: 416-326-2199 Toll-free: 1-866-355-6099

TTY: 416-326-2027 Toll-free: 1-866-607-1240

Collection of Information:

Under the Ontario *Human Rights Code*, the Human Rights Tribunal of Ontario (HRTO) has the right to collect the personal information requested on this form. We use the information to resolve your application. After you file the form, your information may also be available to the public. If you have questions about how the HRTO uses your personal information, contact the HRTO at 416-326-1312 or 1-866-598-0322 (toll-free.)

Submit to HRTO

Print Form

Note: Only submit your Response once. If the Tribunal receives this Response more than once, it will only accept the first Response Form received.

Schedule "A" to Response of Devonshire Mall

1. The Respondent, Devonshire Mall (the "**Mall**"), is a private shopping mall located in Windsor-Essex County, Ontario.
2. The Mall denies that it discriminated against the Applicant on the basis of disability or on any other prohibited ground of discrimination as contemplated by section 1 of the Ontario *Human Rights Code*, R.S.O. 1990, Chapter H.19 (the "**Code**"). The Mall has a policy in place that prohibits discrimination, which is enforced.

The Application is Bereft of Merit

3. The Applicant alleges discrimination on the basis of disability against the Mall on the basis of the following acts:
 - (a) mandatory mask signs posted inside the Mall do not state the exemptions to the Mandatory Mask Rule that have been established by the Windsor-Essex county Health Unit ("**WECHU**");
 - (b) the Mall has temporarily suspended its complimentary electric scooter program during the public health emergency created by the COVID-19 pandemic;
 - (c) the Mall has temporarily closed all food courts, including the food court seating areas, during the public health emergency created by the COVID-19 pandemic; and,
 - (d) the Mall Security team reminded Mall attendees to wear a mask.
4. The Mall submits that none of the acts complained of by the Applicant constitutes discrimination under the Code.
5. At all material times, individuals with disabilities, including the Applicant, have been welcome to attend the Mall.
6. The Application is bereft of merit.

Background

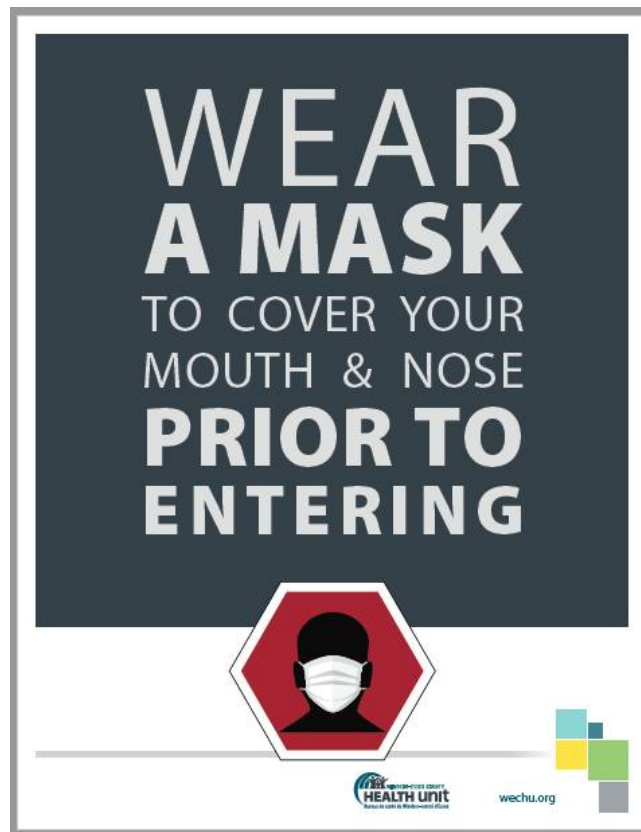
7. Commencing in or around mid-March 2020, Ontario began to experience the effects of the global COVID-19 pandemic, which in turn, caused a public health and safety emergency.
8. On June 23, 2020, WECHU issued an Order pursuant to Section 22 of the *Health Protection and Promotion Act*, R.S.O. 1990, c.H.7 (the "**WECHU Order**") that expressly required all persons who own or operate a Commercial Establishment in Windsor and Essex County to have a policy in place to prohibit persons from entering the premises of

the Commercial Establishment or remaining in the premises if the said person is not wearing a Face Covering (the “**Mandatory Mask Rule**”).

9. The WECHU Order also:

- (a) set out express exemptions to the Mandatory Mask Rule, including children who met certain age requirements, and persons who cannot safely wear a mask for any medical reason;
- (b) expressly required owners and operators of a Commercial Establishment to make “Best Efforts” when restricting entry to customers by:
 - posting appropriate visible signage indicating that masks are required inside the establishment;
 - providing verbal reminders to any customers entering the premises without a mask that he or she should be wearing a mask; and,
 - providing verbal reminders of the requirement to wear masks to customers seen to be removing their masks for extended periods of time.

10. In the WECHU Order, WECHU expressly proposed the following sample Mandatory Mask signage:



11. At all material times, the Mall was subject to the WECHU Order.

The Mall's Signage is Not Discriminatory

12. At all material times, the signage posted by the Mall to alert customers to the Mandatory Mask Rule was the same signage recommended by WECHU in the WECHU Order.

13. There is nothing discriminatory contained in the WECHU signage.

14. Moreover, to ensure that members of the public who were exempt from the Mandatory Mask Rule were not prevented from entering the Mall, on or about June 24, 2020 and August 20, 2020, the Mall provided notice to all of its retail tenants of the exemptions set out in the WECHU Order.

15. To the best of the Mall's knowledge, all retail tenants who operate stores inside the Mall have complied with the WECHU Order, and have not denied entry to any individual who is exempt from the WECHU Order.

16. The duty of the Applicant to advise retailers of his medical exemption to the Mandatory Mask Rule is entirely reasonable in the context of the public safety emergency created by the COVID-19 pandemic, and does not amount to discrimination under the Code.

Suspension of the Mall's Complimentary Scooter Program is Not Discriminatory

17. Prior to the public safety emergency caused by the COVID-19 pandemic, the Mall offered various complimentary services that it had no legal requirement to offer, including kiddie carts, complimentary use of electronic scooters, and a mall walking program.

18. During the public safety emergency caused by the COVID-19 pandemic, the Mall has suspended many of its complimentary programs, particularly those deemed to encourage the spread of the COVID-19 virus. The kiddie cart program, the complimentary electronic scooter program and the mall walking program have all been temporarily suspended as a result.

19. The Mall's decision to suspend these programs has been made for *bona fide* public safety reasons and is not discriminatory.

Closing of Mall Food Courts is Not Discriminatory

20. Prior to the public safety emergency caused by the COVID-19 pandemic, the Mall offered complimentary seating to diners in its food court.

21. During the COVID-19 pandemic, the Province of Ontario issued a mandatory order which, for a time, prohibited dining-in at food courts.

22. In compliance with the Province of Ontario's mandatory order, the Mall closed down its food court in its entirety, including the seating area that was otherwise available to diners.

23. The Mall's closure of its food court was in accordance with the law, and was not discriminatory.

The Mall's Correspondence with the Applicant, and the Applicant's Unreasonable Response

24. On July 17, 2020, the Applicant wrote to the Mall setting out the same complaints that he has made in his Application.

25. That same day, the Mall responded to the Applicant, addressing each of his concerns, so as to ensure that he did not feel excluded from being able to attend the Mall.

26. The Applicant replied by ignoring the Mall's explanation and simply repeating part of his inquiry.

27. Thereafter, the Applicant attended at the Mall and attempted to hand out fliers to all retail operators regarding the Mandatory Mask Rule signage in their stores. The Applicant's actions breached the Mall's prohibition on solicitation in the Mall.

28. The Applicant was asked by the Mall to refrain from engaging in his solicitation activities.

29. The Applicant refused to comply.

30. It was only after Windsor Police instructed the Applicant to cease his unlawful solicitation activities that the Applicant complied with his legal obligations.

Relief Requested

31. The Mall submits that the Applicant has failed to establish that he was subject to any form of discrimination under any prohibited ground of the Code.

32. The Mall requests that the Application be dismissed in its entirety.



Global Human Resources Policies

Global Policy on Inclusion and Diversity	Department: Human Resources Functional Owner: Human Resources / Employee Relations Date: May 2018
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Purpose:

To define inclusion and diversity as significant aspects of Cushman & Wakefield’s organizational culture and a valuable part of its business strategy.

Applies to:

All Cushman & Wakefield¹ employees, globally. This includes Cushman & Wakefield directors, officers, partners, members, employees and brokerage professionals and independent contractors² (collectively, “Employees”) and its contractors and those of its subsidiaries and joint ventures under the Company’s operational control³ anywhere in the world.

Policy:

At Cushman & Wakefield, inclusion and diversity are significant principles. Cushman & Wakefield is committed to fostering, cultivating and preserving a culture of diversity and inclusion. Cushman & Wakefield attracts, develops, and retains a diverse, talented, creative, and innovative workforce by fostering an environment that is inclusive at all levels and where each individual feels welcomed, valued, respected and inspired to contribute to the success of Cushman & Wakefield, its business partners, and the global community. Inclusion is a business philosophy and a way of managing and

¹ The term “Cushman & Wakefield” is used broadly herein to cover all entities that hire employees or engage independent contractors, as applicable

² Independent contractors are independent vendors who assist the Company in the development and carrying out of business on a strategic basis. Independent contractors shall abide by the Global Human Resource policies as part of the obligations assumed under their respective agreement with the Company. Should the independent contractor be a legal entity and not an individual, then such independent contractor shall cause and direct its associates linked to the services provided to the Company, if requested by the Company, to acknowledge and abide by the policies.

³ Compliance with the Global Human Resources policies shall not be construed or interpreted as creating an employment relationship between an Employee and a particular Company entity where none otherwise exists. Compliance with Global Human Resources policies by an independent contractor or an officer or associate of such independent contractor shall not be construed or interpreted as creating an employment relationship between such independent contractor, or officer or associate of such independent contractor, and the Company.

This policy supersedes and replaces any prior policy on the same topic. This policy is also superseded where greater rights or protections are afforded under applicable law or applicable collective bargaining agreement.



behaving that is embedded in everything we do.

Cushman & Wakefield embraces and encourages its employees' differences in age, color, ethnicity, family or marital status, gender identity or expression, language, national origin, physical and mental ability, political affiliation, race, religion, sexual orientation, socio-economic status, veteran status, and other characteristics that make our employees unique because we know that our human capital is the most valuable asset we have. The collective sum of the individual differences, life experiences, knowledge, inventiveness, innovation, self-expression, unique capabilities and talent that our employees invest in their work represents a significant part of not only our culture, but our reputation and company's achievement as well.

All employees of Cushman & Wakefield have a responsibility to treat others with dignity and respect at all times. All employees are expected to exhibit conduct that reflects inclusion during work, at work functions on or off the work site, and at all other company-sponsored and participative events.

Employees who believe they have been subjected to any kind of behavior that conflicts with Cushman & Wakefield's Inclusion and Diversity Policy and initiatives should seek assistance from their manager or HR representative.

Related Policies:

Global Code of Business Conduct

Global Anti-Discrimination and Anti-Harassment Policy



This policy supersedes and replaces any prior policy on the same topic. This policy is also superseded where greater rights or protections are afforded under applicable law or applicable collective bargaining agreement.

Holder, Laura (MAG)

From: Chris Savard <Chris.Savard@cushwake.com>
Sent: July 17, 2020 10:08 AM
To: 'ben.weigl@gmail.com'
Cc: Dwayne Martin
Subject: RE: mandatory masks, but exemptions not listed

Thank you for your email Ben,

I can provide the following responses to your questions below.

- 1) **Signage** – The Windsor Essex County Health Unit has created a toolkit to assist commercial establishments with the proper wording of the signs. Our signs have followed their direction. I have attached the link to their site and have provided an image of the both the Health Unit signage and the ones on our doors.
<https://www.wechu.org/sites/default/files/create-resource/srtbwearmasksign.pdf>
- 2) **Scooters** – Devonshire Mall is one of only a few malls that has chosen to offer a complimentary electric scooter program. As you know, we find ourselves in unprecedented times during this global pandemic. As such, a number of operational changes have been made during this time including the suspension of our mall walking program, the removal of Kiddie Carts, a temporary pause on our scooter program amongst a number of other changes. As we transition back to our new normal, we will look to reinstate these programs when the time is appropriate. These programs will remain suspended until further notice. Please watch our website for updates.
- 3) **Food Court Seating** – Our region is still in Stage 2 as mandated by the Province of Ontario. The guidelines for Stage 2 are very clear that “dine-in at indoor food courts is prohibited”. We know that this requirement will be lifted once our region is permitted to move to Stage 3 by the Province of Ontario. I have provided a link to the Stage 2 guidelines - <https://www.ontario.ca/page/framework-reopening-our-province-stage-2>
- 4) **Mask Enforcement** – We are aware of the Windsor Essex County Health Unit’s order and the exceptions that would allow a person to enter without a mask. The order is very clear that a commercial establishment must make “best efforts” to enforce the order. As part of the “best efforts” defined by the Health Unit, we are required to provide “a verbal reminder that customers should be wearing a Face Covering as a result of this order shall be given to any customer entering the premises without one.” I can confirm that no customer has been asked to leave the building, once they have confirmed that they fit one of the Health Unit’s exceptions. I have provide a link to the Health Unit order - <https://www.wechu.org/sites/default/files/edit-resource/em-class-action-order-face-coverings-wec/class-action-order-face-coverings-wec-june-2020.pdf>

I hope this helps answer your questions. I will also provide a link to our website which outlines the provides useful information to our customers when they visit the Centre during these unprecedented times.

<https://www.devonshiremall.com/covid-19-updates>

Thank you for your email,
Regards,
Chris



Chris Savard

General Manager - Devonshire Mall
Asset Services Canada

Direct: +1 519 966 1319
Fax: +1 519 966 0910
chris.savard@cushwake.com

3100 Howard Avenue
Windsor, ON N8X 3Y8 | CANADA
devonshiremall.com

From: benjers behive [mailto:ben.weigl@gmail.com]

Sent: Friday, July 17, 2020 8:06 AM

To: Chris Savard <Chris.Savard@cushwake.com>; Dwayne Martin <Dwayne.Martin@cushwake.com>

Subject: mandatory masks, but exemptions not listed

External Mail

Dear Mr. Savard.and Mr Martin

As a person with a disability i cannot wear a mask because of it, therefor i am exempt from wearing a mask as per the windsor essex healthunits order .

I respectfully ask if you could clarify a few things and make some changes to your policy, and ask for a reply at your earliest convenience

1. Why does the Devonshire Mall Website and signs at your Mall say a Mask must be worn. but do not list the exemptions on the same sign. Some people with disability may not be able to click the link to the health units order ,or may not be able to effectievly communicate they have an exemption with your security and various stores at the mall.

2. Why have you stopped accommodating people with physical disabilities by no longer offering the lending out of walkers and scooters.

As a person of the disabled community i respectfully ask that you accommodate people with disabilities as per the ontario human rights code Duty to accommodate section by the following actions

1. On your Website and Signs at the Mall, please also list the exemptions in clear view

2. Lend out scooters and walkers again

3. open up your seating for the disabled in your food court

4. instruct your employees and security that people not wearing masks probably have a medical condition and or disability and are exempt from wearing one as per the order and not to bother them.(i believe that the exemptions for not wearing a mask as per the health units order. creates a perceived disability as per the Ontario human rights code, in simpler turns if a person is not wearing a mask you must percive that the person has a disabilty/again as not all person may be able to commicate thier disabilty or medical [condition.to](#) your staff mall security and various stores

I look forward to your reply at your earliest convenience

sincerely

Ben Weigl

ben.weigl@gmail.com

cc: ontario human rights tribunal