

Oral Submission of Nagoya Trading Ltd.

Mr. Mayor and Councillor, My name is Lawrence Hung, a Barrister and Solicitor at the law firm Remedios & Company. I am accompanied by my colleagues, Matthew Remedios, Articled Student, and Hanyuan Wu, Articled Student. We are legal counsel for Nagoya Trading Ltd., operating as Tokyo Beauty.

Introduction

I will be presenting the submissions of Tokyo Beauty in response to the proposed cancellation of its business licence for its store, located at 3660-4151 Hazelbridge Way, otherwise known as the “Aberdeen Store”. This hearing addresses the recommendation made by Mr. Mark Corrado, and we are here to provide Tokyo Beauty’s position and demonstrate why licence cancellation is both disproportionate and unwarranted under the circumstances.

If any member of the Council requires clarification or additional context regarding these documents, we are prepared to address those concerns during this hearing and at the end of our presentation.

Before proceeding, I want to confirm that the Council has received and reviewed our written submissions and the accompanying exhibits, which were submitted in advance of this hearing. Additionally, we have provided each member of the Council with physical copies of our submissions and evidence, including detailed documentation of Tokyo Beauty’s compliance measures, training protocols, and communication with regulatory authorities. These materials offer a comprehensive account of the steps Tokyo Beauty has taken to address past concerns and demonstrate its commitment to regulatory adherence.

Tokyo Beauty regrets the past issues identified by Health Canada. While these incidents were unfortunate, they have since been fully addressed. Tokyo Beauty has made extraordinary efforts to ensure full compliance with all applicable regulations. These efforts underscore a sincere commitment to maintaining the highest regulatory standards and ensuring the safety and well-being of its customers.

Our submission will cover Tokyo Beauty’s factual background, the steps taken to ensure compliance, the company’s economic and social contributions, and its ongoing cooperation with regulatory authorities. We will also highlight the lack of inspection by the City to evaluate current compliance and propose alternatives to licence cancellation that align with principles of fairness and rehabilitation.

We submit that the Primary issue for today's hearing is whether or not the operations of Tokyo Beauty, in its current state, pose a risk to public safety and thus justify an extreme sanction of a full cancellation of its business licence in respect of its Aberdeen Store.

Tokyo Beauty's Position

Tokyo Beauty's position can be summarized as follows:

1. The proposed cancellation of the business licence is disproportionate and unwarranted given the company's absence of non-compliance since March 2024 and its significant compliance efforts to prevent future non-compliance.
2. Tokyo Beauty, at its current state, does not pose a risk to public safety - The incidents of non-compliance, as advised by Health Canada, have been rectified, and substantial measures have been implemented to prevent recurrence.
3. The City's recommendation fails to consider Tokyo Beauty's current compliance status, material improvements, and the broader social, economic and community impacts. The City's recommendations are based on out-dated evidence and it fails to conduct its own inspection or investigation.
4. As a more proportionate approach, rehabilitation-focused alternatives such as suspension, probationary conditions on the licence, or compliance audits would better balance the need for accountability with the importance of preserving Tokyo Beauty's contributions to Richmond's economy and diverse business landscape.

Factual Background

Tokyo Beauty has been a proud member of the Richmond community for many years, operating three retail locations. The business provides high-quality Japanese products that are difficult to find elsewhere in the region. These offerings cater to a diverse customer base, including local residents, visitors from the Lower Mainland, and even international customers.

The Aberdeen Store, in particular, is a vital hub for Tokyo Beauty's operations. It directly employs 12 individuals, many of whom are sole earners supporting their families. Beyond its employees, Tokyo Beauty works with over 25 local suppliers and service providers, creating a ripple effect of economic contributions within Richmond.

Regrettably, Tokyo Beauty experienced regulatory issues when Health Canada identified prohibited products being sold on a few occasions. These incidents, while regrettable, were isolated. Health Canada issued advisories listing the prohibited products but did not recommend for the cancellation of Tokyo Beauty's business licence. In addition, Health Canada did not

recommend or proceed with any means of prosecution against the business. Since these incidents, Tokyo Beauty has taken immediate corrective actions to ensure compliance. The last advisory from Health Canada was issued in March 2024, and there have been no violations or compliance issues since that time.

This period of full compliance demonstrates the effectiveness of Tokyo Beauty's efforts and its dedication to adhering to the highest regulatory standards.

Compliance Measures

Since the issues identified by Health Canada, Tokyo Beauty has implemented a robust compliance framework that addresses past concerns and establishes a strong foundation for future operations. These measures were developed with the assistance of legal professionals and are designed to prevent any recurrence of non-compliance.

- **Exhibit A - Compliance Policy Manual**
 - On October 16, 2024, Tokyo Beauty distributed its compliance policy manual, which became effective on November 1, 2024.
 - The manual outlines comprehensive procedures for product procurement, supplier verification, employee responsibilities, and emergency response protocols.
 - It provides employees with a clear understanding of Health Canada's standards, tools for identifying non-compliant products, and processes for verifying product compliance through regulatory databases.
 - Copies of this manual were distributed to all Tokyo Beauty locations, ensuring consistency across the organization.
- **Exhibit B – Tokyo Beauty Product Standard Management Documents Receipt Form**
 - This is confirmation that the Tokyo Beauty store managers have received and reviewed the compliance policies outlined in the manual. It ensures transparency and accountability, demonstrating that every employee is aware of and committed to upholding the company's regulatory obligations.
- **Exhibit C - Employee Training Policy**
 - Tokyo Beauty implemented a mandatory training policy to ensure all employees understand their compliance responsibilities.
 - Existing employees were required to complete training by November 30, 2024, while new hires must complete the training before their first day of work.
 - This policy ensures that all staff are equipped to uphold regulatory standards from the outset of their employment.
 - This policy sets forth mandatory training requirements for both existing employees and new hires, with a focus on compliance in the cosmetics industry. The document highlights Tokyo Beauty's proactive approach to educating its

workforce about Health Canada regulations and equipping them with the tools needed to identify and address non-compliance issues.

- **Exhibit D – Tokyo Beauty Product Compliance Supervision and Noncompliance Penalty Policy**
 - Tokyo Beauty implemented a progressive penalty system to hold store managers accountable for compliance violations:
 - First violation: Deduction of the manager’s monthly commission.
 - Second violation: Demotion from their managerial position.
 - Third violation: Termination of their managerial role.
 - This policy reinforces accountability and ensures store managers play an active role in maintaining compliance.
 - This policy introduces a system of accountability for store managers, outlining progressive penalties for violations. By holding managers directly responsible for compliance, Tokyo Beauty has established a strong internal oversight mechanism that minimizes the risk of future infractions and illustrates the business’ intention towards compliance.
- **Internal Audits**
 - Tokyo Beauty conducts regular internal audits to verify adherence to compliance standards. Findings from these audits are used to address gaps and continuously improve operations.
 - **Exhibit E – Tokyo Beauty Non-Compliant Product List**
 - This list provides a detailed record of all flagged products identified by Health Canada and the corrective actions taken to address these issues. It also reflects Tokyo Beauty’s ongoing efforts to strengthen its inventory management processes, ensuring that all products meet regulatory standards before reaching shelves.
 - **Exhibit F – Tokyo Beauty Store Compliance Inspection Log**
 - This log tracks internal audits conducted at Tokyo Beauty locations to verify adherence to compliance standards. The document demonstrates the company’s commitment to self-monitoring and continuous improvement, providing tangible evidence of its proactive approach to regulatory compliance.
 - **Exhibit G – Tokyo Beauty Internal Communication Regarding Non-Compliant Products**
 - These communications document internal discussions and directives aimed at addressing past non-compliance incidents. They illustrate Tokyo Beauty’s internal commitment to transparency, swift corrective actions, and the prioritization of compliance across all levels of the organization.
- **Supplier Oversight:**

- In accordance with the Policy Manual, Suppliers are now required to verify product compliance before approval for sale. This measure ensures that non-compliant products do not enter Tokyo Beauty's supply chain.
- **Emergency Response Plan:**
 - Tokyo Beauty has implemented an emergency response plan to handle compliance-related crises swiftly and effectively. This includes coordination with regulatory bodies as needed.

These measures reflect Tokyo Beauty's commitment to compliance and its proactive approach to regulatory adherence.

Cooperation with Regulatory Authorities

Tokyo Beauty has made consistent efforts to collaborate with regulatory authorities, including Health Canada and the City of Richmond, to ensure its operations align with all applicable laws and standards.

In May 2024, Tokyo Beauty contacted the City of Richmond to seek guidance on compliance requirements. This demonstrates the company's proactive approach to addressing municipal concerns.

- **Exhibit H – Letter from Legal Counsel of Tokyo Beauty to the City of Richmond (May 30, 2024)**
 - This letter represents Tokyo Beauty's proactive attempt to engage with the City and seek guidance on aligning its operations with regulatory expectations. Despite not receiving a response, Tokyo Beauty independently developed and implemented its compliance framework, underscoring its good faith efforts to collaborate with the City.

Despite receiving no response or direction from the City, Tokyo Beauty independently, with the help of legal professionals, developed its compliance framework, illustrating its determination to meet regulatory expectations.

Tokyo Beauty has also worked closely with Health Canada, voluntarily submitting products for inspection and promptly removing flagged items. This collaboration underscores the company's commitment to transparency and public safety.

- **Exhibit I – Email Correspondence Between the Director of Tokyo Beauty and a Product Safety Officer at Health Canada**
 - These email communications reflect Tokyo Beauty's direct engagement with Health Canada to clarify regulations and verify the compliance of its products.

They provide evidence of Tokyo Beauty's transparency and its willingness to take extra steps to ensure adherence to regulatory standards.

Community Involvement and Economic Contributions

Tokyo Beauty's operations contribute significantly to Richmond's economic and cultural fabric:

1. Employment:

- The Aberdeen Store employs 12 individuals whose livelihoods depend on the store's continued operation. Many of these employees are sole earners, and the loss of their jobs would create financial hardship for their families.

2. Support for Local Businesses:

- Tokyo Beauty indirectly supports over 25 local suppliers, including importation services, transportation providers, and marketing agencies. The closure of the Aberdeen Store could disrupt these partnerships and create a domino effect of economic instability.

3. Cultural Significance:

- Tokyo Beauty offers specialty Japanese products that enhance Richmond's diverse retail landscape. Its offerings cater to a specific market segment and contribute to the city's reputation as a multicultural and vibrant hub.

4. Community Engagement:

- Tokyo Beauty actively participates in community initiatives, including donations to non-profits and sponsorships for cultural events. The company has also been involved in community outreach programs such as toy drives and food bank projects, underscoring its commitment to supporting vulnerable members of society. Additionally, it has provided free Japanese rice and tea to single mothers, students, and struggling members of the community, further exemplifying its role as a socially responsible and engaged corporate citizen.

Lack of Inspection and Evidence

The issue before us is whether the current operations of Tokyo Beauty genuinely give rise to public concern. It is important to highlight that this matter is not about enforcing federal laws or prosecuting past violations under federal laws. It is also not within the jurisdiction of the council to prosecute under federal law. Rather, the focus is on assessing the business's current practices and determining if they pose a legitimate risk to the public at this time. This distinction is critical, as it requires decisions to be grounded in present evidence and the realities of the business's operations, not assumptions or outdated information.

A critical issue that must be addressed is the City's complete lack of recent inspection or investigation into Tokyo Beauty's current operations. Let me emphasize: the last public advisory issued by Health Canada was in March 2024—nearly eight months ago. Since then, neither Health Canada nor any other authority has identified further compliance issues.

The City relied on the affidavit of Ms. Lina Eng, an officer at Health Canada, to support its case. However, we submit that this evidence does not provide substantive additional support. The affidavit essentially reiterates the finding of non-compliance that formed the basis of the last public advisory, which the City has already submitted and relied upon. It merely noted non-compliance identified in February 2024, without citing any subsequent instances of non-compliance or identifying ongoing concerns regarding Tokyo Beauty. For the sake of procedural fairness and substantive deliberation, we further submit that it would be beneficial for this hearing to invite a representative from Health Canada to address these issues and respond to the Council's concerns regarding potential risks to public safety.

Importantly, the City has not conducted any follow-up inspections or inquiries during this time to monitor the business's practices. This failure to inspect is deeply concerning. It shows that the City has not taken the necessary steps to verify whether the conditions referenced in the advisory still exist. Tokyo Beauty has taken significant steps to address the non-compliance issues.

The City has shown no interest in evaluating these improvements. Instead, the City has based its recommendation for licence cancellation solely on historical incidents. This approach fails to recognize the efforts Tokyo Beauty has made to rehabilitate and comply with relevant standards. It also disregards the principle of fairness, which requires that regulatory decisions be based on current, accurate, and complete information.

Health Canada's silence since March 2024 is significant. As a federal authority with expertise in monitoring public health risks, absence of Health Canada's further advisories indicates that Tokyo Beauty has resolved the issues raised earlier in the year. This makes the City's inaction even more troubling. If Health Canada sees no reason to issue additional warnings, why has the City not taken any independent inspection to confirm the status of the business's operations?

By failing to conduct inspections, the City has essentially relied on outdated evidence and speculation. This lack of due diligence undermines the legitimacy of its recommendation to cancel the licence. Regulatory bodies have an obligation to make decisions based on reliable and up-to-date information, particularly when the stakes are as high as they are here. Without current evidence, the City cannot credibly argue that Tokyo Beauty poses an ongoing public concern.

Finally, the absence of inspections also highlights a missed opportunity for collaboration. Instead of working with Tokyo Beauty to ensure continued compliance, the City has chosen to recommend the most severe penalty without engaging with the business or verifying the current

state of operations. This adversarial approach does nothing to support public safety or encourage businesses to improve; it merely punishes without consideration of progress or rehabilitation.

For these reasons, we urge the Council to recognize the flaws in the City's process and consider a more balanced and evidence-based approach in addressing this matter.

Proportionality and Fairness

The principle of proportionality is central to fair administrative decision-making. Proportionality requires that any sanction should be appropriate to the nature and severity of the harm caused. In this case, the recommendation for licence cancellation is entirely disproportionate to the circumstances and fails to consider the substantial progress Tokyo Beauty has made.

Looking at the facts, the Aberdeen Store has two historical violations on record. It's critical to note that no further incidents have been reported since these violations occurred. Furthermore, Health Canada, a highly regarded authority in public health regulation, has not issued any additional advisories or found compliance issues in over eight months. This absence of recent violations demonstrates that the business has taken meaningful steps to address the concerns raised in the past.

The recommendation to cancel the business licence entirely overlooks these efforts. Tokyo Beauty has demonstrated a clear commitment to compliance and has implemented measures to improve its practices. The City does not prove that, but for a full cancellation of the Aberdeen Store's business licence, there will be an ongoing and substantial risk to public safety. Imposing the harshest possible penalty in response to historical violations, without any evidence of ongoing harm, is both unfair and excessive.

It's also important to consider the broader implications of such a decision. licence cancellation is a punitive measure that effectively shuts down a business, depriving it of the opportunity to correct its practices and contribute to the community. This approach is not only harsh but also counterproductive. Businesses that are willing to engage in corrective action and comply with regulations should be given the chance to do so. In this case, Tokyo Beauty has shown a willingness to improve, and it is in the public's interest to encourage this progress rather than impose an irreversible sanction.

Proportionality is not just a legal principle—it is a practical one. By imposing a penalty that is fair and measured, the City can achieve the dual goals of protecting public safety and fostering a culture of compliance. licence cancellation, in this instance, is not proportional to the nature of the violations or the harm caused. A more balanced approach is needed.

Proposed Alternative Sanctions

To that end, Tokyo Beauty respectfully submits that the Council consider alternative sanctions that are better aligned with the principles of fairness and proportionality. These alternatives would ensure public safety while allowing the business to continue its efforts to comply with regulations. I will outline several specific options for your consideration:

1. Suspension with Conditions:

A temporary suspension of the business licence would serve as a clear warning and give Tokyo Beauty the opportunity to demonstrate its commitment to compliance. During the suspension period, the business could be required to implement specific corrective measures, such as enhanced staff training, stricter quality control protocols, and improved documentation practices. This approach balances accountability with the chance for improvement.

2. Probationary Period:

Another option is to place Tokyo Beauty on probation for a specified period, during which its operations would be subject to strict oversight. Any further violations during this probationary period could trigger more severe penalties, such as extended suspension or licence cancellation. This option provides an incentive for the business to maintain compliance while ensuring that any future risks are closely monitored.

3. Mandatory Compliance Reporting:

The Council may require Tokyo Beauty to submit quarterly compliance reports would provide the City with regular updates on the business's progress. These reports could include details on staff training sessions, product audits, and any other compliance-related activities. This approach ensures transparency and allows the City to monitor the business's efforts without resorting to punitive measures.

4. Independent Compliance Audits:

The Council may mandate regular third-party audits is another effective alternative. Independent auditors could verify that Tokyo Beauty is adhering to all relevant regulations and provide objective assessments of the business's practices. These audits would not only ensure compliance but also build trust between the business and regulatory authorities.

5. City Partnership Program:

Finally, the Council could consider a more collaborative approach by partnering with Tokyo Beauty to improve compliance. This could involve conducting joint workshops, providing guidance on best practices, and establishing a schedule for regular inspections. Such a partnership would foster a cooperative relationship and help Tokyo Beauty achieve sustained compliance.

These alternatives offer a more balanced and constructive approach to addressing the situation. They ensure that public safety remains a top priority while giving the business an opportunity to demonstrate its commitment to improvement. Importantly, they reflect the principle of proportionality by tailoring the response to the nature of the violations and the progress Tokyo Beauty has made.

Conclusion

Mr. Mayor and Councillors, Tokyo Beauty has demonstrated its commitment to regulatory compliance through proactive corrective actions, ongoing cooperation with authorities, and the implementation of robust compliance measures. The company has taken responsibility, and implemented long-term solutions to ensure adherence to all applicable regulations affecting their business.

The proposed licence cancellation would be a disproportionate response that harms not only the business but also its employees, suppliers, and the broader community of the City of Richmond.

Our position is that the City's recommendation to cancel the business licence for the Aberdeen Store disregards Tokyo Beauty's substantial progress. The City fails to conduct inspections to confirm the current business practice of Tokyo Beauty. The City's recommendation is not proportionate to the conduct of Tokyo Beauty. Overall, the City's recommendation fails to consider the totality of the circumstances.

We respectfully urge the Council to reject the recommendation for licence cancellation and adopt a proportionate, rehabilitation-oriented approach. By allowing Tokyo Beauty to continue operating under appropriate conditions, the Council can ensure compliance while preserving the company's significant contributions to Richmond's diverse and vibrant community.

We thank you for your time and attention and are ready to address any questions or concerns you may have.