

**Pilon, Janet**

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**Subject:** Nov. 23 Bylaw Tickets

**From:** Lauren Stephen

**Sent:** November 24, 2020 11:25 PM

**To:** Farr, Jason <[Jason.Farr@hamilton.ca](mailto:Jason.Farr@hamilton.ca)>; [clerk@hamilton.ca](mailto:clerk@hamilton.ca)

**Cc:** Municipal Law Enforcement <[mle@hamilton.ca](mailto:mle@hamilton.ca)>

**Subject:** Re: Nov. 23 Bylaw Tickets

Interesting. What was the trigger for enforcement officers to be there in the first place? A crowd over 25 persons. But doesn't that still require a complaint? The question still remains, where does that initiative come from? My understanding is that MLE does not initiate action themselves.

Regardless. Enforcement officers arrive on the scene. Make whatever call regarding crowd size and bylaw infractions there. Then bylaw enforcement officers see that people are not wearing masks. Officers have the discretion to ticket people proactively when they see a bylaw infraction, and in this case they choose to do it.

Don't they have to want to give out these tickets? Don't they have to choose, proactively, to ticket people about the mask thing? In my experience and understanding, this is a very rare thing for Hamilton MLE to do. I believe it does not happen in other circumstances. Correct me if I'm wrong, but enforcement officers do not give out tickets about snow removal infractions when they happen to see them in the course of doing other business. It's this divergence from the normal course of things that creates an appearance of discrimination.

Also contributing to the appearance of discrimination is the fact that these defund policers are super-hardcore about the covid safety. If you hang out there, you have both to wear a mask *and* keep a distance of 6 feet; both while you're outside; that's crazy safe. I was not present when the tickets were issued, but based on my perception over the past couple of days, you would really have to be making excuses for handing out tickets about mask stuff with this group. I have concerns that an MLE officer who sees the same behaviour in the line at the LCBO on Dundurn would not issue a ticket. I have concerns that a wealthy person spending money at (for example) Matson & Co. does not face the same scrutiny from MLE as citizens exercising their right to peaceful protest in front of city hall.

Your mask enforcement bylaw discriminates based on income. In a private business, for example Matson & Co., if a customer doesn't wear a mask they can be refused service, removed from the restaurant. There would be a lot of warnings, gentle reminders from servers about mask stuff. Calling bylaw enforcement would be a last resort.

Peaceful protestors on public land do not have the same protection. Private property rights effectively protect the people eating at Matson & Co from bylaw tickets. Not the people assembling at city hall. To make things equal, you could have city hall security take charge of this issue. Give people warnings, as they would get if they were shopping or in a restaurant. Ask people to leave the property if they don't wear a mask. Then you can call bylaw enforcement after you have asked people to put on masks, in the same way a private business would. City hall security does not need to be alerted by a public complaint to challenge people about their masks, and they don't have the power to issue tickets, so this would create a situation equal to what exists in Jackson Square or a grocery store.

Personally, I would like the bylaw to have a bit more teeth when it comes to private businesses. As a frontline retail employee, my hands are tied in all sorts of ways when I try to protect myself from people who are playing games with masks. It was amazing to me the ease and speed with which City Hall issued those tickets, something that could never happen at The Beer Store despite worse mask compliance.

There is the appearance of discrimination in that it is quite an exceptional thing for MLE to take the initiative and choose to ticket someone for anything without there being a public complaint. When I have called up bylaw enforcement, which

I have been doing for many years, the excuse I always hear for why they can't take action on some matter of public safety (e.g. uncleared walks) is that taking action is impossible without a public complaint. Or at least it's very very difficult. MLE simply does not have the resources to proactively enforce bylaws outside of a public complaint. Any decision to enforce bylaws proactively is an exceptional one.

LCS