

PUBLIC HEALTH APPEAL BOARD

IN THE MATTER OF THE *PUBLIC HEALTH ACT*
R.S.A. 2000 c. P-37 AND THE REGULATIONS

AND IN THE MATTER OF THE APPEAL BY GARY THOMAS POPP
OF THE ORDER OF AN EXECUTIVE OFFICER
ISSUED BY ALBERTA HEALTH SERVICES, ZONE 3
DATED JUNE 28, 2018

DECISION OF THE BOARD

Date of Hearing: September 21, 2018

Appearances

For the Appellant:

Gary Popp, Owner/Appellant
Don Schilling, Witness for Appellant
Christopher Popp, Appellant's son/consultant

For AHS ("the Respondent")

Jennifer Jackson, Legal Counsel
Jennifer Guth, AHS PHI/EO
Gordon Watt, AHS PHI/EO

Sitting for the Board

Ike Zacharopoulos, Alternate Vice Chair, Chairing this Hearing
Barbara Rocchio, Member
David Rolfe, Member

Background/Facts

[1] Gary Popp (the "Owner/Appellant") is an owner of the property legally described as SW-25-45-06-W5M, located in the County of Wetaskiwin, Alberta and identified as Kramer Pond Lodge/Kramer Pond & Spa (the "Premises").

[2] The Premises were inspected by a Public Health Inspector ("PHI") on June 1, 2011, in response to a complaint. During that inspection it was discovered that there were hot tubs at the Premises, used by members of the public who were guests at the Premises. The associated Environmental Health Report dated July 1, 2011, identified non-compliance in the following areas:

- Disinfection Methods/Equipment;

- Recirculating System;
- Records/Record Keeping;
- Bacteriological Quality; and
- Chemical Quality.

[3] On June 22, 2011, an Executive Officer (the “EO”) provided the Owner with “copies of the Public Health Act; Swimming Pool, Wading Pool and Spray Park Regulation, AR 293/2006 and the associated Pool Standards (2006)”. Thirteen key requirements of the Regulation and Standard were identified uniformly for all hot tubs, along with the respective compliance date for each key requirement.

[4] On July 1, 2011, the Owner advised the EO that three of the eight hot tubs were not in operation. The parties exchanged information regarding hot tub compliance requirements through 2011. The Premises was re-inspected on July 7, 2011, and August 12, 2011.

[5] Inspections were conducted by the PHI on July 13, 2017, and September 15, 2017. On September 26, 2017, the Owner and the PHI discussed by email the waiver application process, agreeing to reconnect in spring 2018. On October 12, 2017, and May 1, 2018 the PHI provided the Owner with the Pool Standards as amended in 2017.

[6] The parties reengaged in 2018, resulting in an inspection on June 14, 2018, of four hot tubs at the Premises. The inspection reports indicated non-compliance in a number of areas, including:

- Bacterial water quality;
- Chemical water quality;
- Filtration/circulation;
- Testing, monitoring and record keeping,
- Written policies.

[7] On June 23, 2018, the Owner submitted chemical records for the hot tubs.

[8] On June 28, 2018, a meeting was held between the Owner and AHS staff. An Executive Order (the “Work Order”) issued by EO Jennifer Guth on the same date was delivered to the Owner at this meeting. The Work Order identified conditions at the Premises; breaches of the *Alberta Public Health Act*, R.S.A 2000. c. P-37 (the “Act”), the *Public Swimming Pools Regulation*, Alberta Regulation 204/2014 (the “Pools Regulation”) and the Pool Standards observed during the June 14, 2018, inspection and ordered and directed work to be undertaken and completed by the Owner by July 12, 2018 (Exhibit 2).

[9] On July 4, 2018, a Notice of Appeal from the Owner was received by the Public Health Appeal Board (the “PHAB”) (Exhibit 3).

[10] Upon re-inspection of the Premises on July 20, 2018, the EO issued further Executive Orders that day, ordering the closure of eight hot tubs at the Premises and directing work to be completed by the Owner in and about the Premises to the satisfaction of the EO (the “Closure Orders”). The Closure Orders were not appealed by the Owner and were not before the Board.

[11] A hearing was held on September 14, 2018, whereby a Board addressed the Respondent's application to render the Appeal moot. It was decided that the Appeal was not moot and a hearing of the Appeal was scheduled for September 21, 2018.

Jurisdiction to Hear the Matter

[12] The parties had no objections to the Board as constituted, or with the Board's jurisdiction to hear the Appeal.

[13] There was no issue raised regarding the timing of the Appeal.

Issues

[14] The issues for the Board's consideration on this matter were as follows:

- (a) Did the EO improperly apply the Act and the Pools Regulation to the Appellant's actual operation and use of the hot tubs?
- (b) Did the EO fail to consider all of the facts that were available?

[15] The Board acknowledged that the Appellant had expressed in its Notice of Appeal, a hope that the Board may "... at the very least establish regulations on out door (sic) stand-alone tubs of the residential sort based on tested technology which actually works". On July 11, 2018, the PHAB had advised the parties that it does not have jurisdiction to establish regulations. The Board did not consider the request to establish regulations a ground of appeal. This was confirmed with the parties at the outset of the hearing.

Board Decision

[16] For reasons outlined herein, the Board decided to vary the Work Order dated June 28, 2018.

Submission of the Appellant

[17] The Appellant submitted Exhibit 2, a binder with 17 tabs in support of its position. In appealing the Work Order, the Appellant was seeking "... to have the executive directive rescinded, or a variance granted and [the] tubs reopened at Kramer Pond Lodge ...".

[18] The Appellant reviewed the operational history of the Premises, including the following:

- (a) Kramer Pond Lodge had been in operation for twenty two years prior to the inspection of June 1, 2011.
- (b) Starting with one dwelling and the first hot tub installed in 1988, the Premises became "... a very small back woods country lodge with twenty-one beds in sixteen bedrooms plus half a dozen sofa-hide-a-beds housed in three cottages and four cabins".
- (c) There were eight hot tubs on site "open only to the occupants of the cottage by which they stood". Use was limited to "whenever guests were at the lodge ... no more than eight or ten days out of the month and for no more (sic) thirty six to forty eight hours

at any given time ... except for long weekends where usage might be extended to seventy two”.

- (d) On July 1, 2011, the Appellant reported that only five hot tubs were “available for operation”: HT-1, HT-4, HT-5, HT-6 and HT-8. Although the plan was to return the remaining hot tubs to service once the necessary work was completed, this did not happen.
- (e) At the time of the June 14, 2018, inspection there were four operational hot tubs at the Premises.

[19] The Appellant’s presentation expressed financial and operational challenges reportedly encountered in attempting to meet the requirements of the Work Order, including the following:

- (a) The cost differential between the “water replacement” procedures historically utilized by the Appellant and the technical standards of the Pools Regulation and associated Pool Standards, especially auto controllers.
- (b) Difficulties finding “automated chemical feeding and monitoring equipment” and associated replacement parts, including auto controllers and probes, for the size/volume and location of the subject hot tubs.
- (c) The purported impact, including “deterioration of ... ground water supply” and “power interruptions”, of industry activity in proximity to the Premise on the application of the technical standards of the Pools Regulation.
- (d) A perceived lack of guidance from AHS staff regarding “viable brands” of automated chemical feeding and monitoring equipment available to the Appellant.
- (e) Reported variances between the certification and operational standards of the National Swimming Pool Foundation (the “NSPF”), the regulatory scheme of the State of Colorado and the technical standards of the Pools Regulation.
- (f) The lack of guidance from either the NSPF or the Pools Regulation regarding retrofitting premanufactured hot tubs to meet the standards of the Pools Regulation and associated Pool Standards, which the Appellant advocated were more appropriate for generally commercial operations involving larger water volume and continuous flow.
- (g) Challenges balancing the hot tub standards and certification requirements of underwriters with the technical standards of the Pools Regulation.
- (h) The Appellant referenced the operation of “... semi-private or semi-public tubs in use from Mexico to BC and from the Laurentians to the Rockies, all without auto-controllers ...”.
- (i) The Appellant submitted that converting outdoor stand-alone hot tubs to “make them adhere to all aspects of Alberta Pool Regulations is impossible ...”.

[20] The Appellant's evidence regarding the Work Order is summarized as follows:

- (a) Four tubs were closed and de-commissioned in 2011. The premises was shut down at times when the Owners were absent.
- (b) Operating hot tubs were filled, heated and balanced immediately prior to guests' arrival and drained when guests departed. They would not operate again until the arrival of the next guests.
- (c) In order to submit water samples on Tuesdays as requested, "at least one tub would run all week long ...". Hot tubs were flushed, backwashed and new filters were installed mid-week when guests were staying for a week or more.
- (d) Hot tub chemistry was "tested and recorded daily and on a weekly basis" when the hot tubs were in use. The Appellant argued that it was not reasonable to expect that empty hot tubs would be tested.
- (e) The turnover rate for the hot tubs was effectively superior to larger pools due to lower volume and operational effectiveness.
- (f) Changes in AHS representatives (PHIs/EOs) reportedly resulted in a loss of continuity and familiarity as new staff was introduced to the Premises without the benefit of past exchanges between the Owner and AHS staff.
- (g) The inspection of July 13, 2017, found the hot tubs to be compliant and the operational procedures had not changed by the time of the June 14, 2018, inspection leading to the Work Order.

[21] The Appellant questioned the applicability of the Pools Regulation to the Premises, arguing that their semi-private/semi-public, stand-alone nature and their intermittent use were not addressed.

[22] The Appellant also addressed the results of a meeting with AHS on June 28, 2018, where the Appellant "... attempted to secure a waiver on certain aspects of the regulations ..." This was identified by the Appellant as "The McLeod Directive".

[23] Further, the Appellant addressed the Executive Orders (the Closure Orders) dated July 20, 2018, identified by the Appellant as "The Watt Closure Report". The Board confirmed with the parties that the Closure Orders were not before the Board.

[24] The Appellant's arguments are summarized as follows:

- (a) The AHS representatives were not CSA/UL certified to direct structural changes to the hot tubs that could put the Owner's insurance and/or warranty at risk.
- (b) The Work Order did not take into account that the mandated equipment, including auto controllers, required extensive retrofitting of the hot tubs that created insurance

and warranty concerns. Further, the equipment had proven to be unreliable, potentially placing public health at risk.

- (c) The AHS representatives had never enquired about occupancies to determine whether the water sample rate submissions were aligned with occupancies, so any suggestion that submissions were insufficient was unsubstantiated.
- (d) The location of the Premises limited the ability to get water samples to testing facilities.

Submission of the Respondent

[25] The Respondent submitted Exhibit 5, a binder with 21 tabs in support of its position. The following evidence was put forward:

- (a) A review of changes over time in the regulatory scheme regarding the operation of public pools, including the requirement for automated controllers.
- (b) A review of the historic engagement between AHS and the Appellant.
- (c) A review of the inspection reports from June 14, 2018, summarized under paragraph [6]. EO Guth confirmed that she participated in that inspection which involved the four hot tubs operating at that time. Further, she issued the Work Order and participated in the meeting between AHS representatives and the Appellant on June 28, 2018, when the Work Order was delivered to the Appellant.
- (d) A review of the water samples from the Premises recorded by ProvLab indicating the following sample rate submission percentages (based on PHI expectations that four hot tubs were used each week from mid-May to mid-September):
 - 65% from May to September 2011;
 - 39% from May to September 2012;
 - 53% from May to September 2013;
 - 28% from May to September 2014;
 - 33% from May to September 2015;
 - 26% from May to September 2016;
 - 13% from May to September 2017;
 - 39% from May to July 17, 2018.
- (e) Confirmation of the subsequent inspection of the Premises on July 20, 2018, which she did not attend, and the subsequent Closure Orders.
- (f) EO Watt spoke to his engagement with the Owner leading up to the June 14, 2018, inspection, including discussions on work needed to bring the hot tubs into compliance with the Pools Regulation. The EO suggested that it was difficult to gauge which hot tubs were operating at any given time and the Owner's submissions on the matter could not be disputed. However, in order to most effectively protect the public

health, it was appropriate to anticipate that all hot tubs may be used and to take the necessary steps to ensure they were compliant with the Pools Regulation.

- (g) The EO indicated that the Owner was given time to work toward compliance and appropriate steps were made, but full compliance was not realized. Primary concerns were inconsistencies with water chemistry and infrequent water sample testing. The Owner had the option of delivering water samples for testing before the hot tubs were emptied, or, if the Tuesday courier service was to be used, the hot tubs would have to operate until samples were taken. It was confirmed that there had been no complaints to AHS regarding the hot tubs.
- (h) It was accepted by the Respondent that Kramer Lodge was perhaps an atypical operation, however regulatory compliance was necessary. Notwithstanding the Appellant's best efforts, the hot tubs were not in compliance with the regulatory scheme. Once EO Guth became the lead on the file, she, in consultation with EO Watt, decided that stronger action was required to bring the hot tubs into compliance with the Pools Regulations.

Board Discussion and Findings

[26] The June 28, 2018, Executive Order did not include orders to close. The Board was mindful that the subsequent Closure Orders were not appealed and not before the Board. Therefore, the Board did not consider the Appellant's request that the hot tubs at the Premises be reopened.

(a) Did the EO improperly apply the Act and the Pools Regulation to the Appellant's actual operation and use of the hot tubs?

[27] The Board determined that the EO properly applied the Act and the Pools Regulations to the Appellant's operation and use of the hot tubs. This was based on the following:

[28] The Board acknowledged the Appellant's argument that the semi-private/semi-public, stand-alone nature and the intermittent use of the hot tubs were not addressed by the Pools Regulation.

[29] The Pools Regulation includes the following:

I In this Regulation,

...

(g) "pool" means a public swimming pool and the public swimming pool's premises;

...

(j) "public swimming pool" means a structure that contains water that is used for recreational, therapeutic or other similar purposes and includes a swimming pool, wading pool, water spray park, whirlpool and any fountain or other artificially created pool of water;

...

(p) "whirlpool" means a structure containing water at a temperature above 30°C and that
(i) is not drained, cleaned and refilled before use by each individual, and
(ii) utilizes hydro-jet circulation or air induction bubbles, or both.

...

3(1) *This Regulation applies to all pools.*

(2) *This Regulation does not apply to*

(a) a structure containing water constructed for the sole use by owners of a single family dwelling and their families and guests,

(b) a natural pool, or

(c) a pool of water that is drained, cleaned and filled after each use by each individual.

[30] The Board understood the description of the operation of the hot tubs to indicate they were not drained, cleaned and refilled before use by *each individual*.

[31] It was not contested that the hot tubs were structures containing water at a temperature above 30°C and utilized hydro jet circulation or air induction bubbles, or both.

[32] The Board acknowledged that the Appellant had a residence at the Premises. However, the Appellant's description of the Premises and its operation as a "little weekend getaway business", "a very small back woods country lodge with twenty-one beds in sixteen bedrooms plus half a dozen sofa-hide-a-beds housed in three cottages and four cabins" offering "weekend leases of private cottages" was found not to meet the conditions expressed under Section 3(2)(a) of the Pools Regulation.

[33] Lastly, there was no argument or evidence that the hot tubs were natural pools.

[34] In light of the above, the Board found that the hot tubs at the Premises were in fact "pools" under the Pools Regulation. It follows therefore, that the Pools Regulation applies to the hot tubs at the Premises.

[35] Further, upon review of the *Application* clarification of the Pool Standards, which mirrors Section 3 of the Pools Regulation discussed under paragraph [28], the Board found that the Pool Standards also apply to the hot tubs at the Premises.

[36] While the Board acknowledged the merit of CSA/UL standards, the Board found no such requirement for EOs under the Qualifications of Executive Officers Regulation, Alberta Regulation 51/1999.

[37] The Act and the Pools Regulation provided no considerations, relaxations or exemptions based on the financial or operational challenges that may result in achieving compliance. The Board was mindful of, but not persuaded by, the Appellant's submissions regarding the challenges of "retrofitting" the hot tubs. However, in consideration of the parties' presentation of the Premises as atypical (both in terms of the location and the nature of the equipment on site), the Board was mindful that the *Waiver Regulation*, Alberta Regulation 298/2003 may provide some basis for relief to the Appellant. While there was discussion of a waiver initiative by the Appellant ("The McLeod Directive"), the Board was not presented with a formal request made by the Appellant, or an order regarding such a request. There was no appeal of any such order before this Board.

[38] The Board acknowledged the difficulties encountered by the Appellant in finding “automated chemical feeding and monitoring equipment” and associated replacement parts, including auto controllers and probes, notwithstanding its efforts to do so. The Board was mindful of the external challenges discussed by the Appellant, including the outlying location of the Premises, the reported deterioration of ground water and power interruptions, and the insurance and warranty considerations. However, the Board has no jurisdiction to offer alternative solutions outside the regulatory scheme. The Appellant’s suggested operational options were understood by the Board not to be compliant with the Act and Pools Regulation. This was supported by the presentations from both parties.

[39] The Board was not persuaded by the Appellant’s references to the NSPF standards, the guidelines of hot tub manufacturers or the regulatory scheme of other jurisdictions, including the State of Colorado. These were understood to be alternatives to the Act and Pools Regulation. The Board found that the applicable regulatory scheme for the subject hot tubs is the Act and Pools Regulation. Looking to other subject experts and regulatory environments is not an alternative to the Alberta regulatory scheme.

[40] The Board acknowledged the Appellant’s reporting regarding a lack of direction and workable options available regarding hot tub retrofitting options, the perceived inconsistencies of past inspections and the changes in AHS representatives over time. While the Board recognized the challenges faced by the Appellant, the Board did not find these factors to support that there was an improper application of the Act and Pools Regulation by AHS.

(b) Did the EO fail to consider all of the facts that were available?

[41] The Board found that the EO failed to consider all of the facts that were available. This was based on the following:

[42] The conditions noted on the Work Order included the following:

“a. Water samples from the eight hot tubs, for microbiological analysis, have not been submitted on a consistent weekly basis during the summer operating season;

b. The hot tub chemistry, has not been tested, monitored and recorded on a consistent, daily basis during the summer operating season;

c. The hot tub water could not be verified as undergoing continuous 24 hour circulation;”...

[43] The parties agreed that four hot tubs were inspected on June 14, 2018. The evidence included inspection reports for “Creek Cottage HT-1”, “Pines Cottage HT-4”, and “Cedars Cottage HT-6”. The EO indicated that HT-5 (located at the Cedars Cottage) was also inspected. The Appellant reported that three hot tubs (HT-2, HT-3, HT-7) were “decommissioned in 2011 due to projected costs for auto-controller installations: ie. HT-2, HT-7, HT-3 & HT-8”. This was not argued by the Respondent.

[44] In light of this, the Board finds it is reasonable that water samples could not be submitted for hot tubs that were decommissioned and closed. Further, that hot tub chemistry could not

be tested, monitored and recorded on a consistent, daily basis for hot tubs that were decommissioned. Lastly, that there could not be continuous 24 hour circulation of a decommissioned hot tub.

[45] The following breaches of the Act, Pools Regulations and Pool Standards were identified in the Work Order:

“a. Operator has not been taking and submitting water samples from the eight hot tubs for microbiological analysis, on a consistent weekly basis during the summer operating season. This condition is contrary to the requirements of section 19(1) of the Public Swimming Pool Regulations, which states, “A sample of the water in a public swimming pool must be taken and submitted to the Provincial Laboratory of Public Health for microbiological testing in accordance with the Pool Standards (a) every week.”

b. The hot tub water chemistry, has not been tested, monitored and recorder on a consistent, daily basis. This condition is contrary to the requirements of section 17(1) & (2) of the Public Swimming Pool Regulations, which state, “An owner, the owner’s agent, if any, or the pool operator must monitor the quality of water in the public pool routinely and keep proper records of testing results and readings. Tests and results for free chlorine, combined chlorine and pH must be conducted in accordance with the Pool Standards during the normal operating hours of a public swimming pool as often as necessary to enable the owner, owner’s agent, if any, or the pool operator to demonstrate water quality.” This condition is also contrary to section 5.2.1 and 5.2.2 of the Pool Standards, which states, “the free chlorine, combined chlorine and pH must be tested manually at least once per day. The automated readings and associated set points shall be monitored and recorded at least once per day.

c. The hot tub water could not be verified as continuously circulating on a continuous 24 hours basis. The condition is contrary to the requirements of section 12(2) of the Public Swimming Pool Regulations, which states, “The filtration and circulation systems must always be in operation.”...

[46] Further to the discussion under paragraphs [42] and [43], the Board found it was unreasonable for water samples to be taken and submitted for decommissioned hot tubs. Therefore, the Board found section 19(1) of the Pools Regulation was not breached. Likewise, the Board found it was unreasonable that hot tub chemistry would be tested, monitored and recorded on a consistent, daily basis, or, that water would be verified as continuously circulating on a continuous 24 hours basis on decommissioned hot tubs. The Board thus found that section 17(1) & (2) of the Pools Regulation, section 5.2.1 and 5.2.2 of the Pool Standards, and section 12(2) of the Pools Regulation had not been breached with regard to the decommissioned hot tubs.

[47] The Board notes that the definition of “whirlpool” as reviewed under paragraph [28] indicates the structure is to contain water. The non-operational hot tubs were reported not to contain water. Therefore, the Board finds it reasonable that section 19(1) of the Pools

Regulation, section 17(1) & (2) of the Pools Regulation, section 5.2.1 and 5.2.2 of the Pool Standards and section 3.1.1(vi) of the Pools Standards would apply to the four operating pools inspected and capable of containing water for operational purposes. The decommissioned hot tubs where found not to meet this operational reality.

[48] The Work Order also included the following conditions:

“d. Automated chlorine and pH control for the hot tubs could not be verified; and

e. Flow meter installation and turnover rates could not be calculated for all eight hot tubs.”

[49] The aforementioned conditions were deemed by AHS to present breaches of the Act, Pools Regulations and Pool Standards as follows:

“d. Automated chlorine and pH control for these hot tubs could not be verified. This condition is contrary to the requirements of section 15(1) & (2) of the Public Swimming Pool Regulations, which states, “A public swimming pool must be equipped with automated chemical feeding and monitoring equipment for pH and chlorine. The equipment referred to in subsection (1), must be (a) maintained in good working order, and (b) calibrated and manually tested in accordance with the Pool Standards to ensure that it is working properly.”

e. Flow meter installation and turnover rates could not be calculated for all eight hot tubs. This condition is contrary to the requirements of section 3.1.1(vi) of the Pool Standards which states, “A recirculation rate shall be maintained so that an amount of water equivalent to 100 percent of the water volume passes through treatment and is recirculated within 15 minutes for a whirlpool with a volume of less than four cubic meters.”...

[50] The Board noted that there had been numerous discussions between the parties, attempting to bring the hot tubs into compliance. Further, the Board was mindful of the changes in AHS representatives on the file. Additionally, the Board understood the parties to agree that the Premises presented examples of atypical public swimming pools. To that end, pursuant to section 5(1)(5) of the Public Health Act, the Board directed the parties to re-engage in order to facilitate a fuller understanding, further consideration and re-determination of the functionality and requirements of automated controllers and flow meters with respect to the hot tubs in question.

[51] The parties did not re-engage, with AHS noting that its jurisdiction was limited to fulfilling the requirements of the legislation, and the Appellant indicating that it had nothing to add to its appeal submissions regarding the functionality and requirements of automated controllers and flow meters.

[52] On clauses 1d. and 1e. of the Order, the Board maintained the consideration of decommissioned hot tubs discussed under paragraphs [42] and [43]. Following the same rationale, the Board found it reasonable that automated chlorine and pH control for the decommissioned hot tubs could not be verified. Further, that flow meter installation and

turnover rates could not be calculated for all eight hot tubs. It follows that the Board did not consider a breach of section 15(1) & (2) of the Pools Regulation, or section 3.1.1(vi) of the Pool Standards with regard to the decommissioned hot tubs.

[53] In summary, the Board found the weight of evidence to support that:

- (a) The EO properly applied the Act and the Pools Regulations to the Appellant's operation and use of the hot tubs.
- (b) The EO failed to consider all of the facts that were available.

Board Conclusion

[54] In light of the above findings, the Board varied the Work Order as follows:

1. That the Owner immediately undertake and diligently pursue the completion of the following work in and about the above noted premises, namely:

a. Collect and submit water samples for microbiological analysis, on a consistent weekly basis, from all hot tubs operating at any point during the week.

b. The hot tub water chemistry of all operating hot tubs must be tested, monitored and recorded on a consistent, daily basis when the hot tubs are approved to operate. Free chlorine must be kept at a minimum of 2 ppm and should be kept at a maximum of 5 ppm; pH must be maintained between 6.8 – 7.6 units; alkalinity should be kept at 60 – 180 mg/l.

c. The water of all operating hot tubs must be kept circulating on a continuous 24 hours basis.

d. The automated controller for the operating hot tubs for chlorine and pH control must be operating and maintained.

e. The flow meters for operating hot tubs must be installed in accordance to manufacturer instructions and turnover rates must be calculated and meet requirements of the Pool Standards such that the flow rates do not exceed the capacity of the water filters.

No variances were made to clauses 1f, 1g, or 1h of the Order.

[55] The Order, as varied, shall remain in force until rescinded by AHS.



Ike Zacharopoulos, Hearing Chair
On behalf of the Public Health
Appeal Board

Date: March 1, 2019

APPENDIX "A"

EXHIBITS CONSIDERED BY THE BOARD:

NO.	ITEM
Exhibit 2	Order of an Executive Office dated June 28, 2018 (the "Work Order")
Exhibit 3	Notice of Appeal dated July 4, 2018 (the "Appeal")
Exhibit 4	Appellant's Disclosure in support of the Appeal
Exhibit 5	Respondent's Disclosure in response to the Appeal