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Our ref: 18-016  
Your ref: -

8 June 2018

Ms Joslin Colli  
Coordinator Planning Services  
City of Vincent  
244 Vincent Street  
LEEDERVILLE WA 6902

**By email:**

joslin.colli@vincent.wa.gov.au

Dear Joslin

**SNAP Fitness, Mt Lawley**

- 1 I refer to the mediation in this matter on 22 May 2018, and thank you, your colleagues and Cr Gontaszewski for attendance.

**Update**

- 2 For your information, since the mediation was held, my client has completed the planned reinstallation of flooring in Lot 7, in accordance with the recommendations made by EcoAcoustics.
- 3 That included the inclusion of acoustic rubber tiles with a depth of 40mm, and impactomat gym flooring with a depth of 15mm over the entirety of the floor area where gym activity or machines are located. While the facility has always complied with the *Environmental Protection (Noise) Regulations 1997* it is EcoAcoustic's view that these treatments will minimise noise transfer between the gym and the floor below.
- 4 As explained at mediation, the offer to install this flooring was put to Mr Golestani in January 2018 as part of the mediation process in CC 1968 of 2017 *Golestani v Smak Global Pty Ltd and Ors*.
- 5 The offer was rejected, and in the abundance of caution the decision was made by my client not to install the flooring until the hearing in CC 1968 of 2017 had been finalised. The reason for this was that Mr Golestani had foreshadowed bringing his own acoustic

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evidence at the hearing, and my client was concerned that if that acoustic expert recommended a different treatment to the flooring and the State Administrative Tribunal agreed, then in the worst case scenario it would be necessary to remove the existing flooring and install new flooring to comply with the Tribunal's orders.

- 6 As it turns out, Mr Golestani did not adduce further acoustic evidence, and on that basis my client went ahead and installed the flooring as per EcoAcoustic's recommendations, at a cost of circa \$50,000. This was finalised on 4 June 2018.

## **Further information**

### **Complaints procedure**

- 7 At the mediation, the City asked for further information regarding the way in which the SNAP Fitness business goes about dealing with complaints.
- 8 As discussed, SNAP has never received a complaint relating to the time period of 9pm to 6am in the morning. In respect of complaints received at other times (and particularly the complaint log provided by the City), the way in which those complaints are best dealt with is by the complainant logging the exact time that the noise was heard, and advising the gym of this in a timely manner.
- 9 SNAP fitness can use two forms of checking to determine whether the claims are substantiated –
- 9.1 The gym uses CCTV cameras throughout, and data from those cameras is saved on the hard drive of the security system for approximately 2 months. This footage can be interrogated to determine who was in the gym at the time, and what activities that person was undertaking;
- 9.2 The gym requires members to swipe their membership cards to gain entry into the gym. This data can be used to determine whether there was anyone in the gym at the time of the alleged incident, and if so, the identity of that person.
- 10 Where the claim is substantiated, the member can be further educated or reprimanded (as the case may be) to ensure there is no repeat incident. As discussed at the mediation, the terms and conditions of SNAP Fitness membership require members to act appropriately within the gym, and in particular to not drop weights.
- 11 SNAP Fitness can ban a member from using a gym where those terms and conditions are not followed.
- 12 A number of signs appear around the gym reminding members of this fact - some of which are standard SNAP fitness signs, and some of which have been added since complaints regarding noise from the lower floor tenants were received (**see enclosed**).

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- 13 As discussed at mediation, there is no benefit in a manned telephone line between 9pm and 6am. This is because –
- 13.1 There have been no complaints made during that time period, and therefore we would say that such a condition is unreasonable in a legal sense;
- 13.2 In a practical sense, it is unlikely to achieve a better outcome than that proposed above. This is because if a member is undertaking an activity that is causing noise, by the time a representative of the gym arrives at the gym during the night, it is likely that the member may have completed their exercise in any event. It is much more powerful to be able to show the member footage of what they were doing incorrectly, and re-educate.

### **Proposed amended condition**

- 14 Having had regard to the City's concerns, our view is that a Management Plan is unnecessary, and a condition of approval regarding complaints management would be more useful.
- 15 For the above reasons, the Applicant proposes that condition 10 be deleted, and in its place –
- '10. Complaints received by the gym relating to the hours of 9pm to 6am are to be dealt with in the following way –
- 10.1 The complaint is to be investigated within 48 hours of being received by interrogation of CCTV footage and member entrance records;
- 10.2 Where the complaint is substantiated, the member is to be educated regarding appropriate conduct.
- 10.3 A response regarding the outcome of investigation of the complaint is to be provided to the person who provided the complaint within 72 hours of the complaint being made.
- 10.4 A complaints register is to be maintained that includes –
- Each complaint.
  - The outcome of the investigation of that complaint.
  - Where the complaint is substantiated, the action taken.
  - The date upon which a response was provided to the person who provided the complaint, and a copy of that response.
- 10.5 The complaints register is to be made available to the City upon request.'
- 16 We have used the term 'person who provided the complaint' so that in circumstances where the complaint has been received from the City, that we can advise the City of the outcome, and they can then pass it on to the complainant.

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## Conclusion

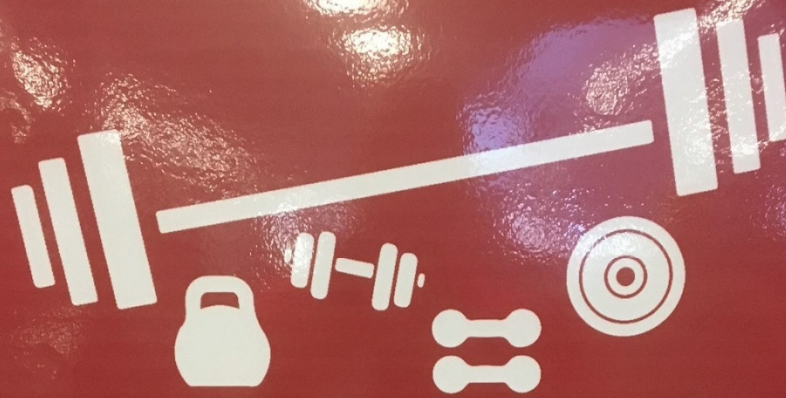
17 I trust that the foregoing answers satisfies the City's concerns. Please contact me if you would like to discuss, or feel that anything has been missed.

Yours sincerely



**Belinda Moharich**

Director



# KINDLY DO NOT DROP WEIGHTS

DUE TO NOISE COMPLAINTS DROPPING  
WEIGHTS IS STRICTLY BANNED.

ENSURE YOU HAVE FULL CONTROL  
OVER THE WEIGHT TO GET OPTIMAL  
GROWTH AND MUSCLE ENGAGEMENT

 **SNAP**  
FITNESS 24-7

MT LAWLEY



