

**IN THE MATTER OF AN APPLICATION BY COMMUNITY CANNABIS INC. FOR
SUB-CLASS 2 CANNABIS RETAIL LICENSE**

Before the Cannabis Licensing Board: David Sloan, Chair, and Members Cynthia James, Clarence Timmons and John Farynowski on February 14, 2023, 1000 hours, at 9031 Quartz Road, Whitehorse, Yukon Territory.

Applicant: Jordan Stackhouse and Dan Schneider for **Community Cannabis Inc.**

Yukon Liquor Corporation: Will Tewnion, Director, Regulatory Services Ashely Taylor, Licensing and Compliance Officer

Objectors: **The Herbarry Inc.**, Richard Fuller, President, and **Montessori Borealis School**, Brooke Alsbery, President

Board Secretariat: Kelly Milner and Moira Sauer

REASONS FOR DECISION

INTRODUCTION

1. These are the unanimous reasons for decision of the Cannabis Licensing Board (the “Board”) after hearing an application by Community Cannabis Inc., as represented by Jordan Stackhouse and Dan Schneider and its legal counsel Jason Tarnow, for a sub-class 2 Cannabis Retail Licence.
2. David Sloan is the Chair of the Board, and the other members of the Board present are: John Farynowski, Clarence Timmons and Cynthia James; and the Board’s Secretariat are Kelly Milner and Moira Sauer.
3. The Chair stated that the president of the Yukon Liquor Corporation (the “President”) had received an objection to a proposed license application of Community, with a proposed licensed premises at A-20193 - 2nd Avenue in Whitehorse; and, as an objection has been received, a hearing is required pursuant to section 32 of the *Cannabis Control and Regulation Act* (the *Act*”).
4. The Chair noted that Community is represented by Schnieder and Jordan Stackhouse; that they are here with their legal counsel Jason Tarnow and Gina Nagano from House of Wolf Consulting.
5. The Chair noted that the Yukon Liquor Corporation (the “YLC”) is represented by Will Tewnion, Director of the, Licensing Branch, and Inspector Ashley Turner.

6. The Chair noted the Objectors, Richard Fuller of The Herbarry Inc., and Brooke Alsbery, President of Montessori Borealis.
7. The Chair then set out the procedure for the hearing, as follows:
 - a. The staff of the YLC will provide a brief summary of the Application.
 - b. The Applicant and each Objector will have an opportunity to speak.
 - c. Each participant will be limited to 15 minutes for their presentation.
 - d. Each participant will be limited to 5 minutes to ask questions.
 - e. Each response to questions will be limited to 5 minutes.
 - f. The Applicant and each Objector will be limited to 5 minutes for a closing statement.
 - g. During the presentations, Board members may ask questions.

STATEMENT OF FACT

8. On November 9, 2022, the President received an application (the "Application") from Community Cannabis Inc. (the "Applicant") for a sub-class 2 Cannabis Retail License (the "License"). Pursuant to the Application, the Applicant is requesting the issuance of the License for Community Cannabis, at Unit A-2193 2nd Ave, Whitehorse, Yukon.
9. On November 24, 2022, the Application was deemed complete by the President; and, accordingly, the President delivered a copy of the Application to the Board and circulated public notice of the Application in the Whitehorse Star between November 26 and December 23, 2022
10. Members of the public were given the opportunity to object to the Application during the four-week objection period, which ran until December 23, 2023.
11. Within the objection period, the President received four (the "Objections"):
 - a. Brooke Alsbery, President, Montessori Borealis by letter submitted *via* email on December 22, 2022.
 - b. Jordi Mikeli-Jones, CEO Triple J's Canna Space, *via* email, submitted on December 23, 2022.

- c. Richard Fuller, CEO of The Herbarry Inc., *via* letter submitted on December 23, 2023.
 - d. Erin Shultz, Teacher, Montessori Borealis, *via* e-mail submitted on December 23, 2023.
12. The President delivered a copy of the objections to the Board. Upon receiving a copy of the objections, the Board served a notice to the Applicant, the Objectors, and the President on January 9, 2023 that a hearing would be held on February 14, 2023 to consider the Objections.
13. Pursuant to section 32 of the *Act*, the hearing proceeded as scheduled on February 14, 2023.
14. The Applicant, the YLC and the Objectors Richard Fuller and Brooke Alsbery. Objectors Jordi Mickle-Jones and Erin Schultz sent their regrets.
15. For the Cannabis Licensing Board, only Vice Chair Mieke Leonard was not present. All objectors participated via Zoom.
16. The Application sets out, *inter alia*:
 - a. Community Cannabis Inc., was incorporated on February 23, 2022.
 - b. Community Cannabis Inc. entered into a 8-year lease agreement for the space in November of 2022.
 - c. To prevent the sale of cannabis to persons under 19 years of age, Community Cannabis Inc. will have clear signage on the inside and outside doors stating you must be 19 years of age or older to enter the premises of the cannabis store; and, there will be an arctic entry that will allow access from a separate door to the convenience store which does not have any age requirements to enter. In the arctic entry, there will also be clear signage stating that you must be 19 years of age to enter.
17. There is one e-mail of December 07, 2022, by Jennifer Szakszon, in support of the Application in which it is written:

“I am writing to express my support for the above cannabis license application.

I am extremely supportive of Yukon owned and operated businesses and support the operation of this business in my community and it’s proposed location.”.
18. In the “Community Cannabis Application Package for Board”, based upon information from the Community Cannabis Inc., the acting President wrote, *inter alia*:

- a. Summary of 4 objections:
 - Proximity to Montessori (103-1191 Front Street)
 - Proximity to new proposed Montessori (100 Keish Street)
 - Proximity to Shipyards Park
 - Alleged inducements
 - Alleged intimidation tactics
 - Alleged questionable tactics
- b. The City of Whitehorse has a bylaw with restrictions that include:
 - 100 m from temporary shelter services, substance abuse/youth at risk service provisions, parks with play structures, and retail service (restricted).
- c. The *Cannabis Control and Regulation Act* requires a cannabis retail store be 150 m. from an elementary or secondary school.

19. The Objection of the Yukon Montessori School states that:

- a. The Yukon Montessori School is an educational institution for children aged 3 to 12 years of age ... concerned about the proximity of this new cannabis store and one of our current classrooms 103-1191 Front Street and as well as the location of new school space 100 Keish Street.
....
- b. The Yukon Montessori School is a preschool and elementary school providing an engaging and rich learning environment for over 60 children in the Whitehorse area.
....
- c. Our new school location at 100 Keish Street will be within 150 metres of this proposed location of this cannabis store.
....
- d. ... [L]egislative parameters to protect children and youth were passed in the Yukon with the *Cannabis Control and Regulation Act*.
....

20. The Objection of the un-named objector states, *inter alia*:

....

- a. I object on the following merits:
 - i. The proposed location of A-2193 Second Avenue is within 150 meters from the existing Yukon Montessori School at 103-1191 Front Street.
 - ii. The proposed location of A-2193 Second Avenue is within 150 meters of the new elementary school currently being built by Yukon Montessori School (for students up to Grade 7)
 - iii. Inducements- **Illicit** tactics used by the proponents of Community Cannabis to garner support letters in previous municipal zoning amendment hearing.
 - iv. Adverse effect on the public health and safety of Yukoners by having a cannabis retail operation next to Shipyards Park.
 - v. Intimidation tactics used by Jordan Stackhouse against members who opposed Community Cannabis being permitted to operate close to the Independent Learning Centre.
- b. ... by offering “to reciprocate with a store discount or a favour”

....
- c. The proximity to Shipyards Park.

....

21. The Objection of the The Herbary Inc., by Richard Fuller, states, *inter alia*:

- a. The applicants signed a 5-year lease
....
- b. The applicants ... due diligence
....
- c. In addition ... , there is ... this location’s proximity to Shipyards Park.

22. The Objection of the Erin Schultz, Head Teacher - Aurora Classroom, Montessori Primary Yukon Montessori School, states :

....

Our location currently is at 103-1191 Front Street where we have our preschool and Kindergarten location. In February 2023 we will be moving into our new building on

the corner of Front Street and Keish Street - which is within the 150 m that cannabis locations are restricted to be within as per the regulations of distance from Yukon students.

Our new location will be housing our kindergarten to grade 7 students, all registered and a part of the Aurora Virtual School.

ORAL STATEMENTS

23. Ashley Turner informed the Board that on their application review, they did an analysis of location, proximity and an analysis of the different events; that they looked at the number of objections; the YLC has no objections; and, the application is deemed complete.
24. Will Tewnton informed the Board that “playgrounds” are in The City of Whitehorse bylaw; that City Council had made some reference to Shipyards Park not being under that bylaw; that from YLC’s checks, there is no contravention of any bylaw as far as proximity; that there are no elementary or secondary schools, by definition under the Act, within the 150 meter buffer zone.
25. Will Tewnton informed the Board that what YLC does to determine if it is a school or secondary school is to go to the government of Yukon Web page, which lists the schools; that is what YLC uses to determine proximity to school issues; that based upon that, there was never a question about the Borealis School, at the time, because it is not listed on the website; and, that is why it never came to YLC’s attention until there was an objection.
26. Will Tewnton informed the Board that if Montessori Borealis is a school then it is within 150 meters.

APPLICANT

Jordan Stackhouse

27. Jordan Stackhouse stated that the premises are outside of the 150 meter buffer zone from any elementary or secondary school as defined in the Act; and, that Community is permitted for this use through the City of Whitehorse.
28. Jordan Stackhouse read a quote from the city planner: "It is noted that Shipyards Park was owned P.W. Public waterfront prior to the legalization of cannabis and Shipyards Park play structure was built in 2021. It was not considered appropriate to rezone the site to a PR parks and recreation zone, as decided as the size of the site and shared the intent of the buffer distance from an otherwise TR Parks and recreation zone site was met to protect youth."
29. Jordan Stackhouse stated Community is, according to the YLC, not within 150 meters of a

school; and; Community is eligible to own a cannabis location.

Jason Tarnow

30. Jason Tarnow is legal counsel to Community and informed the Board that some missteps were made along the way; that accommodations and acknowledgments and recognitions of changes were made by Mr. Schneider and Mr. Stackhouse in making sure that the Application, as it is before the Board today, is in compliance with those rules and regulations; and, that they have gone to great lengths and efforts to ensure that everything is in compliance.
31. In response to Mr. Fuller and his objections, Jason Tarnow submitted that his objection here should be viewed through the lens as an attempt to stifle any competition into the cannabis space.

House of Wolf and Associates

Gina Nagano

32. Gina Nagano informed the Board that Mr. Stackhouse had approached her business, House of Wolf and Associates; that it is an Indigenous-owned business; that they have been doing community safety in Yukon for the last ten years; and, that she commends Community for asking her to be a part of this inclusivity of their business going forward.

Jedrek Dendys

33. Jedrek Dendys informed the Board that he works for for Gina Nagano; that he specializes in crime prevention or environmental design; that it is based heavily off of the theory of the broken window theory, which is the presence of crime in a community or the perception that there is crime in the community will incite more crime; that it provides a psychological incentive for more crime; that if you go at a community with a holistic, community oriented and Indigenous lens approach, you can find out what incites more crime in the community; and, that what this involves is looking at it through four different concepts, which are: territorial reinforcement, natural surveillance, natural access control and then maintenance.

THE OBJECTORS

The Herbary Inc. – Richard Fuller

34. Richard Fuller informed the Board that he is the chief operating officer of The Herbary Inc.; that the Board had changed the definition of a school for the Individual Learning Center; that the Board can change the definition of a school that relates to Montessori Borealis; that the Board can change the definition of a school; and, that it can be done in the spirit of the Act,

in the context of protecting children first.

35. Richard Fuller informed the Board that his objection is framed in the context of the applicant's suitability to hold the license; that a relevant consideration is (g), which is "the extent to which the applicant is otherwise, of good character and fit and a fit person to keep and operate the premises and to be a licensee."; that the proposed location appears to be within 100 meters of Shipyards Park; that it is acknowledged that Shipyards Park is technically designated as Public Waterfront; that it is listed as a park and the government website is managed by the City of Whitehorse Parks Department; that it has a massive play structure from which the proposed location is directly visible; and, that for all practical intents and purposes, it is a park.
36. Richard Fuller informed the Board that the Montessori School is within 150 meters of the proposed location; that the Board should use its discretion to protect young persons by denying this application due to its proximity to Montessori; and, that it is important for the protection, particularly around young children

Yukon Montessori Society

Brooke Alsbery

37. Brooke Alsbery informed the Board that she is the President of the Board for the Yukon Montessori Society; that they are registered under the Aurora Virtual School; that the Aurora Virtual School is designated as an elementary school within the Yukon Territory; that within the Department of Education they operate an elementary school from kindergarten through grade seven; that a new location will house all of their classrooms in the future, for the toddler program and their elementary school; that their objection is closeness to an elementary school; and, that the new space at 100 Keish Street, is within 150 meters of the Applicant's proposed location.

CLOSING STATEMENTS

38. Jordan Stackhouse stated that through all the analysis and research Community has done, their proposed location and operation does not pose a danger to anyone, let alone youth; that they have taken every measure and precaution required to ensure this will not be an issue; that Community submits the Montessori School would not meet the criteria of a school under the Act; that the Montessori School is not run by Government of Yukon employees; that it does not follow the Government of Yukon curriculum; and, that it is not governed by a Government of Yukon board of directors; and, as a result, it is independent business.
39. Richard Fuller stated that he is concerned about kids; that he feels very strongly about the protection of young persons as it relates to the cannabis industry; that he believes in the Act; that he believes in the regulations; and, that he believes they should be enforced.

STATEMENT OF ISSUE

40. The issues on this Application and the Objections are, whether, by applying the “relevant considerations”:
- a. the Board is satisfied that Community has complied with the
 - i. the requirements of this Act and the regulations have been complied with,
 - ii. to grant the licence would be in the public interest, and
 - iii. it is not necessary for the licence to contain additional conditions;
 - b. the Board should grant the licence, for the licence period that the Board determines, on the conditions additional to the statutory conditions that the board determines to be appropriate, if satisfied that
 - i. the requirements of this Act and the regulations have been complied with,
 - ii. to grant the licence would be in the public interest, and
 - iii. it would be beneficial for the licence to contain those additional conditions;
or,
 - c. the Board should refuse to grant the licence, because the Board is not satisfied that
 - i. the requirements of this Act and the regulations have been complied with, or
 - ii. it would be in the public interest to grant the licence.

STATEMENT OF LAW

The Statutory Scheme

Cannabis Control and Regulation Act, S.Y. 2018, c.4 (the “Act”)

Purposes of Act

41. The purposes of this Act are to establish prohibitions relating to the importation, sale, distribution, possession, purchase, cultivation, propagation, harvesting, and consumption of cannabis, and to public intoxication, in order to

....

(b) protect young persons and discourage their access to, and consumption of, cannabis;¹

Interpretation

42. In this Act

“relevant considerations”, in relation to an application for a licence, means the following:

- (a) the number of licences, and of different types of licences, in the area in which the premises where it is proposed that cannabis would be sold are situated,
- (b) the population of the area, including
 - (i) seasonal variations in the population, and
 - (ii) variations in the population both in the immediate area where the premises are situated and more distant areas capable of being served by the premises,
- (c) any economic benefit in the area that could reasonably be expected to flow from the business of the sale of cannabis,
- (d) the expressed views of the population, both in the immediate area surrounding the premises and more distant areas capable of being served by the premises, of the need for, or desirability of, licensed premises in the area, including the need to serve the projected travelling public in the area,
- (e) the amount of the actual or projected capital expenditure made or to be made by the applicant in relation to the premises,
- (f) whether the premises
 - (i) conform to the requirements of all relevant enactments,
 - (ii) are constructed so as to be sanitary and secure, and
 - (iii) are otherwise suitable for the carrying on of the business of the sale of cannabis in a reputable way,

¹Act, s. 1

- (g) the extent to which the applicant is financially responsible and is otherwise of good character and a fit person to keep and operate the premises and to be a licensee,
- (h) whether the applicant is the owner of, or the lessee for a term of at least the proposed licence period of the licence of, the premises,
- (i) the compliance history of the applicant in relation to the conditions of a licence, a licence under the Liquor Act, or a licence under an Act regulating cannabis or liquor in another jurisdiction, held by the applicant before or at the time of the application,
- (j) the sufficiency of the arrangements proposed by the applicant for operating and controlling the premises in accordance with the statutory conditions,
- (k) a matter prescribed to be a relevant consideration; and,

“young person” means a person who is a minor as described in the *Age of Majority Act*.²

43. The term “recreational land” means

- (a) a park under the administration of a First Nation, a municipality, the Government of Yukon or the Government of Canada, or
- (b) any other land ordinarily and primarily used for recreational purposes.³

Application for licence

44. Subject to subsections (3) and (4), a person who wishes to sell cannabis must apply to the board in writing for a licence to sell cannabis in particular premises.⁴

45. The application must be delivered to the president, in the form required by the regulations or the president, and be accompanied by the prescribed application fee and any information required by the president.⁵

²*Act*, s. 2 (1)

³*Act*, s. 2 (4)

⁴*Act*, s. 26 (1)

⁵*Act*, s. 26 (2)

Decision of board after hearing

46. After the hearing, the board must make one of the following decisions, taking into account the documents received under subsection 30(1), the relevant considerations and any representations of the persons served with notice of hearing:
- (a) to grant the licence, for the licence period that it determines, that contains no conditions additional to the statutory conditions, if satisfied that
 - (i) the requirements of this Act and the regulations have been complied with,
 - (ii) to grant the licence would be in the public interest, and
 - (iii) it is not necessary for the licence to contain additional conditions;
 - (b) to grant the licence, for the licence period that it determines, on the conditions additional to the statutory conditions that the board determines to be appropriate, if satisfied that
 - (i) the requirements of this Act and the regulations have been complied with,
 - (ii) to grant the licence would be in the public interest, and
 - (iii) it would be beneficial for the licence to contain those additional conditions;
 - (c) to refuse to grant the licence, if not satisfied that
 - (i) the requirements of this Act and the regulations have been complied with, or
 - (ii) it would be in the public interest to grant the licence.⁶

Cannabis Control and Regulation General Regulation, O.I.C. 2018/184 (the “*Regulation*”)

Location of cannabis retail stores

47. Subject to subsections (2) and (3), a cannabis retail store must be located so that each point on each lot line of the premises of the cannabis retail store is more than 150 metres from each

⁶*Act*, s. 33 (1)

part of a building that is, or is part of, an elementary school or secondary school.⁷

48. A provision of a municipal bylaw prevails, to the extent of any inconsistency, over the requirements of subsection (1), in relation to the location of a cannabis retail store located within the municipality, within the meaning of the Municipal Act, if
- (a) the bylaw is validly adopted by the council of the municipality; and
 - (b) the bylaw is in force.⁸

Education Act, 2002 R.S.Y., Chapter 61

1. Definitions

49. In this Act,

"school" means a body of students organized as a unit for educational purposes under the jurisdiction of the Minister or a School Board.⁹

School Case Law

50. In 1982, in *Thunder Bay (City) v. Potts* Justice DuPont of the Ontario High Court of Justice opined that what was understood by the term "school" 75 years ago may be restrictive when compared to what is conjured up by such terms in today's society. Notwithstanding, there exist definitions of some vintage that would incorporate within that term a program of instruction beyond those associated with public primary and secondary schools. I refer in particular to *Black's Law Dictionary*, 5th ed. (1979), which defines school as: "institution or place for instruction or education [including private schools]".¹⁰
51. Justice DuPont cited *The Shorter Oxford English Dictionary*, 3d ed., as containing a wide variety of definitions in the traditional sense but includes the following "to send to school; to educate at school; to teach with superiority; to tutor; to chastise; to educate, train; to render wise, skillful or tractable by training or discipline; to instruct (a person) how to act; to teach (a person) his part; to train or exercise...". *The Winston Dictionary, College Edition*, which also defines the term "school" in the traditional sense of a place where instruction is given, that is an institution for learning; schoolhouse; schoolroom; and the body of pupils collectively with their teacher in any education institution, includes the following definition in a figurative sense: "any channel through which knowledge, training or discipline is

⁷*Regulation*, s. 7 (1)

⁸*Regulation*, s. 7 (2)

⁹*Education Act*, s. 1

¹⁰*Thunder Bay (City) v. Potts*, 1982 CarswellOnt 820 (Ont. H.C.J.), para. 17

gained". *Webster's New World Dictionary* (1956), includes the following definition of "school": "a place or institution for teaching and learning as a public school, dancing school, college or university". *Webster's New Collegiate Dictionary* provides the usual definition of school by reference to "schools oriented in academic instructions or learning," but includes the following: "to teach or drill in a specific knowledge or skill".¹¹

52. Justice DuPont was of the view that the broader interpretations of "school" are consistent with and supported by the trend of recent jurisprudence. In *Seafarers Training Institute v. Williamsburg (Township)* (1982), 39 O.R. (2d) 370, 19 M.P.L.R. 183, 138 D.L.R. (3d) 407 (Dir. Ct.), my brother Smith, speaking for the Divisional Court, commented as follows on the meaning of the word "education" in the context of an assessment statute [at pp. 375-76]:

....

In my view, each case must be approached in an effort to find whether the institution is a *bona fide* school, not a sham or a cloak. The word education should then be given the kind of broad interpretation which it has in common parlance. If a place has students, physical facilities, teachers or instructors, a curriculum designed to further the advancement in life of those in attendance so that they might better pursue their vocation or life's work, it should be held to be an institution (seminary) for educational purposes.¹²

53. In 1982, in *Winnipeg School Division No. 1. v. MacArthur*, Justice Kroft of the Manitoba Court of Queen's Bench confirmed that, in ordinary parlance, the words "public school" have a variety of meanings, depending on their context and the locale in which they are used. For instance, a public school in England has a very different connotation than a public school in Canada. Perhaps all that can safely be said is that the words usually refer to a school provided at the public expense and managed by public authority, and that a public school is clearly something different from a private school.¹³

STATEMENT OF ANALYSIS

54. Applying the "relevant considerations", the Board finds that:
- a. paragraph (a) is not significant for this Application;
 - b. paragraph (b), the daily population of school-aged children in the immediate area and has identified potential issues with the presence of children in proximity to the proposed location, is significant for this Application;

¹¹*Thunder Bay (City) v. Potts*, 1982 CarswellOnt 820 (Ont. H.C.J.), para. 18

¹²*Thunder Bay (City) v. Potts*, 1982 CarswellOnt 820 (Ont. H.C.J.), para. 19

¹³

- c. paragraph (c) is not significant for this Application;
 - d. paragraph (d), the expressed views of the population including the Board of Montessori Borealis that represents 60 families whose children attend classes near the proposed premises is significant for this Application;
 - e. paragraph (e) is not significant for this Application;
 - f. paragraph (f) is not significant for this Application;
 - g. paragraph (g) is not significant for this Application;
 - h. paragraph (h) is not significant for this Application;
 - i. paragraph (i) is not significant for this Application; and,
 - j. paragraph (j) is not significant for this Application.
55. The Board finds that the proximity of the proposed location to both the existing and new Montessori Borealis School and the statutory requirement for a cannabis retail facility to be at least 150 metres from a school location is a relevant objection.
56. The Board finds that the Montessori Borealis is private school; that it operates under the Yukon's Aurora Virtual School; that it provides instruction to approximately 60 students between pre-school and Grade 7; and, while the school follows Montessori pedagogy and educational approaches, it conforms to and meets the requirements of the British Columbia curriculum.
57. The Board finds that, as it is a private school, Montessori Borealis is not listed on the Yukon Department of Education's website; and, notwithstanding, the Aurora Virtual School, which is listed, it is considered under the jurisdiction of the Yukon's Department of Education.
58. Applying Yukon's *Education Act*, a "school" means a body of students organized as a unit for educational purposes under the jurisdiction of the Minister or a School Board
59. Applying the "school" case law, the Board interpret private schools to fall within this definition.
60. The Board finds that Montessori Borealis has been seeking a permanent location for several years; that it has operated classrooms in three separate locations (including one at 103-1191 Front Street which is within 150 m of the proposed cannabis retail location); that 100 Keish Street is within 150 metres of the Applicant's premises proposed cannabis retail location.

61. The Board is satisfied that the premises are not in accordance with the *Act*, which requires the lot lines of a cannabis retail store to be more than 150 metres from any building that is or is part of an elementary or secondary school.
62. Based upon all of the evidence and applying the law, the Board is satisfied that the Application is not in conformity with the requirements of the *Act* and the *Regulation*.
63. The Board is satisfied that objection should affect the Application.

STATEMENT OF CONCLUSION

64. A major objective of the *Act* is to protect young people and discourage their use of cannabis. The *Act* specifies that no cannabis retail location is to be within 150 metres of a school building. The initial inspection of the site only reviewed schools listed on the Yukon Government Website. Montessori Borealis is a private school housed under the Aurora Virtual School and was not captured in the Inspector's report. The objections brought forward helped clarify the Montessori Borealis' position, and allowed the Board to determine that it is a school and meets the definition under the *Education Act*.
65. This information led to the Board to the conclusion to refuse to grant a sub-class 2 licence to the Applicant for the premises located at Unit A-2193 2nd Ave, Whitehorse, Yukon.

STATEMENT OF DECISION

66. Having considered the Application the Objections, the Applicant's response to the Objections, and taking into account the relevant considerations and requirements under the *Act* and the *Regulation*, and having determined that a grant of the licence would not be in the public interest, the Board grant a license for the premises located at Unit A-2193 2nd Ave, Whitehorse, Yukon.
67. The Application is dismissed.

Dated: February 17, 2023.



David Sloan, Chair