

4. **RIOCAN MANAGEMENT INC. (TANGER OUTLETS OTTAWA)  
APPLICATION FOR AN EXEMPTION BY-LAW TO THE *RETAIL BUSINESS  
HOLIDAYS ACT***

**DEMANDE DE RIOCAN MANAGEMENT INC. (CENTRE COMMERCIAL  
TANGER OUTLETS À OTTAWA) VISANT L'ADOPTION D'UN RÈGLEMENT  
D'EXEMPTION À LA LOI SUR LES JOURS FÉRIÉS DANS LE COMMERCE  
DE DÉTAIL**

**COMMITTEE RECOMMENDATIONS, AS AMENDED**

That Council:

1. Enact a By-law in the form of Document 1 to exempt Tanger Outlets Ottawa from the store closing requirements of the *Retail Business Holidays Act*, and confirm the applicant fee, as described in this report;
2. Add the words “Family Day” and remove “Good Friday” in the definition section of the draft by-law in Document 1 so that the list reads  
  
“(1) “holiday” means,
  - (a) New Year’s Day;
  - (b) Family Day;
  - (c) Victoria Day;
  - (d) Canada Day;
  - (e) Labour Day; and
  - (f) Thanksgiving Day.”; and
3. Remove “2005” in the "Tanger Outlets Ottawa Proximity to Tourist Attractions" section of the report related to the Canadian Tire Centre on page 13, so that it reads “(v) the 2008 NHL entry Draft”.

## RECOMMANDATIONS DU COMITÉ, TELLES QUE MODIFIÉES

Que le Conseil :

1. adopte un règlement municipal sous la forme présentée au document 1 pour exempter le centre commercial Tanger Outlets à Ottawa des exigences de fermeture des magasins de la *Loi sur les jours fériés dans le commerce de détail*, et confirmer les droits encourus, comme le décrit le présent rapport;
2. ajoute « le jour de la Famille » et de retirer « le Vendredi saint » dans la section des définitions du règlement municipal provisoire (document 1), pour que la liste se lise comme suit :

« (1) “jour férié” s’entend des jours suivants :

a) le Jour de l’An;

b) le jour de la Famille;

c) la fête de la Reine;

d) la fête du Canada;

e) la fête du Travail;

f) le jour de l’Action de grâce »; et

3. retire « 2005 » dans le paragraphe sur le Centre Canadian Tire de la section « Proximité aux attractions touristiques du centre commercial Tanger Outlets » (page 13 du rapport), de sorte qu’on y lise : « (v) the 2008 NHL entry Draft » (repêchage de la LNH de 2008).

## DOCUMENTATION/DOCUMENTATION

1. Director’s report, Economic Development and Long Range Planning, Infrastructure and Economic Development Department dated 20 August 2020 (ACS2020-PIE-EDP-0024).

Rapport du Directeur, Développement économique et Planification à long terme, Direction générale de la planification, de l’infrastructure et du développement économique daté le 20 août 2020 (ACS2020-PIE-EDP-0024).

2. Extract of draft Minutes, Finance and Economic Development Committee, 1 September 2020

Extrait de l'ébauche du procès-verbal, Comité des finances et du développement économique, le 1 septembre 2020

**Report to  
Rapport au:**

**Finance and Economic Development Committee  
Comité des finances et du développement économique  
1 September 2020 / 1er septembre 2020**

**and Council  
et au Conseil  
9 September 2020 / 9 septembre 2020**

**Submitted on August 20, 2020  
Soumis le 20 août 2020**

**Submitted by  
Soumis par:  
Don Herweyer,  
Director / Directeur**

**Economic Development and Long Range Planning / Développement économique  
et Planification à long terme / Infrastructure and Economic Development  
Department / Direction générale de la planification, de l'infrastructure et du  
développement économique**

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**Ward: KANATA NORTH (4) / KANATA  
NORD (4)**

**File Number: ACS2020-PIE-EDP-0024**

**SUBJECT: RioCan Management Inc. (Tanger Outlets Ottawa) Application for an  
Exemption By-law to the *Retail Business Holidays Act***

**OBJET: Demande de RioCan Management Inc. (centre commercial Tanger  
Outlets à Ottawa) visant l'adoption d'un règlement d'exemption à la  
Loi sur les jours fériés dans le commerce de détail**

## REPORT RECOMMENDATION

That the Finance and Economic Development Committee recommend Council enact a By-law in the form of Document 1 to exempt Tanger Outlets Ottawa from the store closing requirements of the *Retail Business Holidays Act*, and confirm the applicant fee, as described in this report.

## RECOMMANDATION DU RAPPORT

Que le Comité des finances et du développement économique recommande au Conseil d'adopter un règlement municipal sous la forme présentée au document 1 pour exempter le centre commercial Tanger Outlets à Ottawa des exigences de fermeture des magasins de la Loi sur les jours fériés dans le commerce de détail, et confirmer les droits encourus, comme le décrit le présent rapport.

## EXECUTIVE SUMMARY

### Background

RioCan Management Inc. has applied for an exemption By-law under s. 4(1) of the *Retail Business Holidays Act (RBHA)* to allow retail businesses located within Tanger Outlets Ottawa, 8555 Campeau Drive in Kanata, to remain open on certain statutory holidays. This report serves to provide an overview of the legislation, criteria for granting exemption By-laws, an overview of the RioCan Management Inc. application and recommendations, as well as related legislation regarding employee rights and retail store hours.

### Assumptions and Analysis

This report recommends that Council enact a By-law to exempt Tanger Outlets Ottawa from the store closing requirements of the *Retail Business Holidays Act*, as the application meets the requirements of the *Act* and its regulation. The exemption By-law would provide economic development opportunities for the local retail sector and other potential economic benefits to area hotels, restaurants and attractions. The proposed exemption By-law is consistent with other exemption By-laws passed by the former Regional Municipality of Ottawa-Carleton and City Council that allow designated retail business areas in the city to remain open on specified statutory holidays.

### Financial Implications

The proposed fee revenues will fund costs associated with the application.

## **Consultations**

In preparation of this report, Economic Development Services provided information related to the *Retail Business Holidays Act* and notice of the report rising to Committee and Council to the local Board of Trade, Business Improvement Areas, and Ottawa Tourism. Economic Development Services also consulted with the Vice-President of Development from RioCan Management Inc., the Office of the City Clerk, and the Development Review Branch of the Planning, Infrastructure and Economic Development Department. As required by the *Retail Business Holidays Act*, public notice of the consideration of this report was provided.

## **RÉSUMÉ**

### **Contexte**

RioCan Management Inc. a présenté une demande de règlement d'exemption en vertu du paragraphe 4(1) de la *Loi sur les jours fériés dans le commerce de détail* pour permettre aux commerces de détail situés dans le centre commercial Tanger Outlets, au 8555, promenade Campeau à Kanata, de demeurer ouverts certains jours fériés. Le rapport vise à présenter un aperçu de la législation, les critères d'adoption des règlements d'exemption, les grandes lignes de la demande de RioCan Management Inc. et les recommandations qui s'y rattachent, de même que la législation connexe sur les droits des employés et les heures d'ouverture des établissements de vente au détail.

### **Hypothèses et analyse**

Le rapport recommande au Conseil d'adopter un règlement municipal pour exempter le centre commercial Tanger Outlets à Ottawa des exigences de fermeture des magasins de la *Loi sur les jours fériés dans le commerce de détail*, puisque la demande respecte les critères de cette loi et de ses règlements. L'exemption créerait des occasions de développement économique pour le secteur du détail local et pourrait avoir d'autres retombées économiques pour les hôtels, les restaurants et les attractions du secteur. Le règlement d'exemption proposé correspond aux autres règlements d'exemption adoptés par l'ancienne Municipalité régionale d'Ottawa-Carleton et le Conseil municipal qui permettent aux commerces de détail des zones désignées de la ville de demeurer ouverts certains jours fériés.

### **Répercussions financières**

Les droits proposés financeront les coûts liés à la demande.

## Consultations

Dans le cadre de la préparation du rapport, les Services de développement économique ont fourni aux chambres de commerce, aux zones d'amélioration commerciale de la ville et à Tourisme Ottawa des renseignements en lien avec la *Loi sur les jours fériés dans le commerce de détail* ainsi que l'avis de rapport au Comité et au Conseil. Les Services de développement économique ont aussi consulté la vice-présidence au développement de RioCan Management Inc., le Bureau du greffier municipal et la Direction de l'examen des projets d'aménagement de la Direction générale de la planification, de l'infrastructure et du développement économique. Comme l'exige la *Loi sur les jours fériés dans le commerce de détail*, un avis de l'examen de ce rapport a été publié.

## BACKGROUND

RioCan Management Inc. has applied for an exemption By-law under s. 4(1) of the *Retail Business Holidays Act* to allow retail businesses located within Tanger Outlets Ottawa to remain open on certain statutory holidays. This report serves to provide an overview of the legislation, criteria for granting exemption By-laws, an overview RioCan Management Inc.'s application and recommendations, as well as related legislation regarding employee rights and retail store hours.

Located in Kanata North, Tanger is in close proximity to three (3) distinct tourist attraction, the Canadian Tire Centre, the Bell Sensplex and the Thunderbird Sports Centre. Tanger is a major commercial centre, having recorded over 1.5 million vehicle visits to the subject property in 2019, which translates to an estimated total of 4.2 million visitors. Tanger is also a significant job generator, with approximately 1,200 employees at the lowest shopping period of the year. Tanger attracts many shoppers from outside the City of Ottawa, including Eastern Ontario, the Ottawa Valley and Western Quebec, indicating Tanger's status as a regional draw.

### **Overview of the *Retail Business Holidays Act***

The *Retail Business Holidays Act* is provincial legislation that prohibits retail businesses in Ontario from conducting business or admitting the public on certain prescribed holidays, except under certain circumstances. The Ministry of Government and Consumer Services administers the *Retail Business Holidays Act*. The legislation attempts to strike a balance between allowing businesses to remain open on certain holidays and providing consumers and employees with common days of pause.

Subsection 2(1) of the *Retail Business Holidays Act* requires retail businesses to close on nine specified days each year, unless the businesses fall under exemptions allowing them to remain open. The holidays regulated under the *Retail Business Holidays Act* are:

- New Year's Day (January 1);
- Family Day (the third Monday of February);
- Good Friday (the Friday before Easter Sunday, typically March or April);
- Easter Sunday (typically in March or April);
- Victoria Day (the last Monday before or on May 24);
- Canada Day (July 1);
- Labour Day (first Monday in September);
- Thanksgiving Day (the second Monday in October); and
- Christmas Day (December 25).

Section 3 of the *Retail Business Holidays Act* includes “built-in” limited exceptions for certain retail businesses that allow them to remain open on a holiday. These include small stores that sell foodstuffs, handicrafts, antiques or tobacco and that use less than 2,400 square feet for serving the public with a maximum of three employees. Additionally, it also includes pharmacies under 7,500 square feet, liquor stores, businesses serving prepared meals such as restaurants, boat or car rental businesses, nurseries, flower shops, gardening centres and gas stations.

### **Municipal Exemption By-laws Under *Retail Business Holidays Act***

In addition to the exemptions built into the legislation noted above, subsection 4(1) of the *Retail Business Holidays Act* also allows businesses to remain open on one or more holidays if the particular business or business area benefits from an exemption By-law from the municipality in which it is located. Businesses or business areas must apply to the municipality for such an exemption By-law.

In order for a municipality to pass an exemption By-law to allow retail businesses to remain open on a holiday, subsection 4(3) of the *Retail Business Holidays Act* requires that the retail business or retail area in question complies with the “Tourism Criteria” set



out in Ontario Regulation 711/91, passed under the *Act* (described further below). The *Act* also requires a municipal council to take into account the principle that holidays should be maintained as common pause days (s. 4(2)) when considering an exemption By-law application.

### **Enforcement**

The *Retail Business Holidays Act* is enforced by the Ottawa Police Service as per provincial legislation. Persons or businesses found to be open in contravention of section 2 of the *Act* are liable to fines of not more than the greater of \$50,000 or the gross sales procured on the holiday in question. In addition, minimum fines are established under the *Act* in the amounts of \$500 for a first offence, \$2,000 for a second offence, and \$5,000 for a third offence.

### **Existing Exemption By-laws in Ottawa**

In Ottawa, there are currently seven exemption By-laws passed under the *Retail Business Holidays Act*. The Ottawa Macdonald-Cartier International Airport exemption was enacted in 2018 while the Sparks Street Mall, Glebe Business Improvement Area, ByWard Market Business Improvement Area, Rideau Centre, Downtown Rideau Business Improvement Area and Loblaws Supermarket on Rideau Street exemption By-laws were enacted between 1991 and 2016 and remain in force as part of Part 8 of the Regional Regulatory Code (RMOC By-law 313 of 1988). A previously existing exemption By-law for Burkholder Furs on Bank Street was repealed in 2008 as the business ceased operating.

Under the Ottawa Macdonald-Cartier International Airport exemption By-law, the exempted area is allowed to remain open on all holidays.

Under the remaining six exemption By-laws, the exempted areas and Loblaws are allowed to remain open on the following holidays:

- New Year's Day;
- Victoria Day;
- Canada Day;
- Labour Day;
- Thanksgiving Day; and

- Family Day.

It should be noted that December 26 (Boxing Day) and Sundays (other than Easter Sunday) were removed from the list of holidays in the *Retail Business Holidays Act* by the Province in 2006, and therefore retail businesses may stay open on those days as they are no longer considered to be holidays under the *Retail Business Holidays Act*.

### **Requirements for Exemption By-law**

Pursuant to subsection 4(1) of the *Retail Business Holidays Act*, Council may pass an exemption By-law to allow individual retail businesses or retail business areas to remain open on certain prescribed holidays under the *Retail Business Holidays Act*, “for the maintenance or development of tourism”. Council must take into account “the principle that holidays should be maintained as common pause days” (s. 4(3)).

In accordance with subsection 4(3) of the *Act*, all businesses for which an application is made must meet the requirements of the Tourism Criteria Regulation, being Regulation 711/91 (the “Tourism Criteria Regulation”), under the *Retail Business Holidays Act*, including that:

1. All retail businesses within an area for which an application has been received must be located within two kilometres of the tourist attraction (s. 2(2)(a)); and
2. At least 25 per cent of the businesses within the area must be directly associated with the tourist attraction or rely on tourists visiting the tourist attraction for business on the holidays that are the subject of the exemption (s. 2(2)(c)).

What constitutes a tourist attraction is specifically prescribed in s. 1(3) of the Tourism Criteria Regulation, including, natural or outdoor recreational attractions and historical attractions. The Regional exemption By-laws passed in the 1990s for areas in the downtown core relied principally on Parliament Hill as the authorized tourist attraction under the Regulation. The Glebe BIA exemption was principally based on proximity to Lansdowne/TD Place and the reliance of tourism to the Glebe.

### **Applicable Process for Exemption By-laws**

Pursuant to subsection 4(8) of the *Retail Business Holidays Act*, there is no obligation on Council to pass an exemption By-law even if all of the criteria of the *Act* are met. However, certain mandatory processes for By-law applications are prescribed either in the *Retail Business Holidays Act* itself or by the former Regional Municipality of Ottawa-Carleton By-law 98 of 1992, which was amended by Council on September 9, 2015 in

order to align the application requirements with current Committee and Council processes and structure.

Generally, the application process for an exemption By-law under the *Retail Business Holidays Act* includes the following:

- The applicant must apply in writing to the City of Ottawa with the required \$2500.00 processing fee. Economic Development Services is the lead in the review of any new applications received.
- The application must include:
  - Name and description of nature and character of the businesses on whose behalf the application is made;
  - The holidays applied for, and nature of type of goods and/or services to be offered on those holidays;
  - A detailed plan, including location and size of businesses, to which the exemption will apply, including floor area to be open and maximum number of employees serving the public on the holiday(s) in question;
  - Detailed reasons in support of the application and any supporting documentation, including studies, surveys, letters of support, or other documentation showing that the requested exemption is desirable and necessary for the maintenance or development of tourism in the area in question;
  - A resolution in support of the application by the local chamber of commerce or tourist authority; and,
  - A detailed summary of all the relevant tourism criteria relied upon, as set out in the Tourism Criteria Regulation passed under the *Retail Business Holidays Act*.

Subsection 4(6) of the *Retail Business Holidays Act* requires that the City hold a public meeting, with prior public notice, regarding an application for an exemption By-law in order to allow the public to make representations on the proposed exemption By-law. The September 1, 2020 meeting of the Finance and Economic Development Committee serves as the public meeting. Final consideration and determination of the application will rise to City Council.

Pursuant to section 4.2 of the *Retail Business Holidays Act*, an exemption By-law passed by a municipal council may apply to one or more businesses or classes of businesses. It may also limit the opening of businesses to one or more of the specified holidays, and to specific hours on those days.

Pursuant to subsection 4(8) of the *Retail Business Holidays Act*, any By-law passed by the City does not become valid until after a 30-day appeal period has passed to allow appeals to the Local Planning Appeal Tribunal (LPAT), which may dismiss the appeal on condition that the municipal council amend the By-law in a manner specified by LPAT, or cancel the By-law. Should an exemption By-law be appealed, the By-law is not valid until all the appeals have been dismissed or until the By-law has been amended by the municipal council in the manner specified by LPAT.

### ***Municipal Act, 2001 and the Retail Business Holidays Act***

Section 148(1) of the *Municipal Act, 2001*, allows a local municipality (single-tier or lower-tier) to enact By-laws to require retail business establishments, with some exceptions, to be closed to the public at any time. This is the case in the City of Ottawa for Remembrance Day, when retail businesses are required to be closed before 12:30 pm (By-law 2008-355).

The *Retail Business Holidays Act* was amended in 2006 to include provisions that would allow municipalities to “opt out” of the *Retail Business Holidays Act* and enact their own By-laws regarding store closings on a holiday under their powers found in s. 148 of the *Municipal Act, 2001*, noted above. On December 30, 2016 the Province proclaimed into force section 1.2 of the *Retail Business Holidays Act* allowing municipalities to choose to be exempt from application of the *Retail Business Holidays Act*. The City of Ottawa has not exercised this option to opt out of the RBHA.

### ***Employment Standards Act and the Retail Business Holidays Act***

The *Employment Standards Act, 2000* is provincial legislation that sets out minimum standards for employers as well as employee rights in Ontario. It is administered and regulated by the Provincial Ministry of Labour of Ontario. The *Employment Standards Act* addresses issues, such as hours of work and payment of wages, among other workplace issues. The *Employment Standards Act* lists its own holidays, which mirror those set out in the *Retail Business Holidays Act* but does not include Easter Sunday. The *Employment Standards Act* does not apply to employees working in federally-regulated workplaces, such as federal civil servants or those working in banks or airlines.

Most employees whose workplaces are governed by the *Employment Standards Act* are entitled to a day off with pay on a holiday prescribed in the *Retail Business Holidays Act*, with some exceptions. Part XVII of the *Employment Standards Act* applies specifically to retail business establishments (with some exclusions) and provides that an employee of a retail business establishment may refuse to work on a holiday prescribed under the *Retail Business Holidays Act* (subsection 73(1)). Where the public holiday falls on a day that would ordinarily be a working day, most retail employees qualify for the public holiday off work with public holiday pay.

Where the public holiday falls on a day that would not ordinarily be a working day, or the employee is on vacation, most retail employees qualify for a substitute day off with holiday pay.

Generally, unionized employees would be entitled to take off a holiday under the *Retail Business Holidays Act* with holiday pay unless the applicable collective agreement is more beneficial to them in relation to holidays than the *Employment Standards Act* holiday provisions. In that case, the collective agreement holiday provisions would apply, rather than the *Employment Standards Act* holiday provisions.

However, an employee may also agree to work on a holiday if that particular business is allowed to remain open, and applicable collective agreements or individual employment contracts may also set out work requirements on holidays for businesses remaining open on those days. The *Act* further provides specific formulas for calculating holiday pay in different circumstances.

Part XVII of the *Employment Standards Act* noted above does not apply to employees in certain categories of businesses, including those serving prepared meals in establishments, such as restaurants and cafeterias, motels or hotels, institutions providing educational, or recreational services such as museums, galleries, sports stadiums, theaters, bars and nightclubs. The *Retail Business Holidays Act* does not apply to these types of establishments in any event, and as a result, whether an employee of those establishments works on a holiday is a matter to be decided between the employer and the employee based on whether the establishment remains open on that day and the applicable provisions of the *Employment Standards Act*. Employees who are employed in these types of establishments may be required to work on a holiday identified in the *Retail Business Holidays Act* if it falls on a day that is ordinarily a working day for them and they are not on vacation. In that case, the employer must either pay the employee their regular wages for the day and provide a substitute day off

with pay, or pay the employee public holiday pay for the day plus premium pay (one and a half times their regular rate) for each hour worked that day.

Some employers may choose to give their employees a day off on Easter Sunday (not a holiday under the *Employment Standards Act*), Easter Monday (not a holiday under either the *Retail Business Holidays Act* or the *Employment Standards Act*), or the Civic Holiday in August (not a holiday under either the *Retail Business Holidays Act* or the *Employment Standards Act*), even when the employer is not required to do so under the *Employment Standards Act*. Collective agreements and employment contracts will often set out provisions regarding work on those days.

It is important to note that any issues regarding an employee's obligation to work on a holiday set out in the *Retail Business Holidays Act* (or any other holiday) or an employee's rights under the *Employment Standards Act* are to be determined by the particular employer and employee, and are not within the purview of the City. The Ministry of Labour's public materials state that questions regarding employer-employee issues related to holidays under the *Retail Business Holidays Act* may be addressed to the Ministry of Labour's Employment Standards Information Centre at 1 (800) 531-5551 (toll free Canada-wide).

### **Case Law**

The former Ontario Municipal Board (OMB) has rendered a limited number of decisions regarding the *Retail Business Holidays Act* and objections related to the tourism criteria.

In one instance, an exemption By-law related to the tourism exemption in the Region of Peel was reviewed by the OMB in 1995 and was found not to meet the requirements of the *Retail Business Holidays Act* and associated Regulation. The Board determined in that case that there was no tourist attraction within the meaning of the *Act* within two kilometres of the area, such as a cultural, multi-cultural or educational tourist attraction. It also found that there was insufficient evidence that 25 per cent of the businesses within the area were directly associated with a tourist attraction or relying on tourists visiting the attraction within the required proximity.

In another decision involving the County of Haldimand in 2002, the OMB noted the importance of being associated with a tourist attraction, which may include tourist events and the reliance on tourists on statutory holidays. The Board further noted that a common pause day principle must also be considered by Council. In this instance, the Board determined that these requirements were not met to permit the exemption By-law.

In other decisions involving the Region of Peel, the OMB determined in 2012 that the exemption By-law met the requirements of the *Retail Business Holidays Act* and associated Regulation based on evidence of a tourist attraction, being the Bramalea City Center as important to the City's cultural identity, and that the common pause day principle had been considered. In 2013, a further appeal to the OMB involving an amendment to the exemption By-law to include Family Day was dismissed. The OMB recognized that significant resources had gone into making the Bramalea City Center a reflection of the community and a vibrant shopping center as part of the planning vision for the area and activities planned for Family Day in the area.

## **DISCUSSION**

RioCan Management Inc. is seeking an exemption to the *Retail Business Holidays Act* for all non-exempt retail businesses within Tanger Outlets Ottawa ("Tanger") for New Year's Day, Family Day, Victoria Day, Canada Day, Labour Day and Thanksgiving Day. This report recommends that City Council enact a By-law amending the Regional Regulatory Code to exempt Tanger from the store closing requirements of the *Retail Business Holidays Act* as there is enough justification to support the required criteria for such an exemption. The total floor area to be covered by the holiday exemption is 353,171 square foot located in the Tanger site, serviced by an estimated maximum of 315 employees.

Tanger is a major commercial centre, having recorded over 1.5 million vehicle visits to the subject property in 2019, which translates to an estimated total of 4.2 million visitors. Tanger is also a significant job generator, with approximately 1,200 employees at the lowest shopping period of the year. Tanger attracts many shoppers from outside the City of Ottawa, including Eastern Ontario, the Ottawa Valley and Western Quebec, indicating Tanger's status as a regional draw.

In support of the application, letters of support were received from:

- Ottawa Tourism
- Ottawa Board of Trade
- PVH, which represents Tommy Hilfiger and Calvin Klein
- BeaverTails Ottawa Incorporated
- Blair Horvath, Owner of Chilly Chiles

- Irada Business Solutions Inc., representing Café Aromesso
- Puma Canada Inc.

### **Tanger Outlets Ottawa Proximity to Tourist Attractions**

In accordance with subsection 4(3) of the *Retail Business Holidays Act*, all retail businesses within Tanger are located within two kilometres of tourist attractions that fall within one or more of the criteria given in s. 1(3) of the Tourism Criteria Regulation:

- Natural attractions or outdoors recreational attractions;
- Historical attractions; and,
- Cultural, multi-cultural or educational attractions.

Tourist attractions specified within the application as being within two kilometres of Tanger include:

- The Canadian Tire Centre is the largest sports and concert venue in the National Capital Region after the outdoor TD Place Stadium at Lansdowne Park. It regularly hosts major speaking events, musical acts, concerts, and sporting events. In 2019, the Canadian Tire Centre welcomed such attractions as A Conversation with Barack Obama, A Conversation with Michelle Obama, Disney On Ice, Kevin Hart, Cirque du Soleil and many others. The following major events are further examples of events which draw tourists to the area: (i) the 2009 IIHF World Junior Ice Hockey Championships, (ii) the 2008, 2009, 2010, 2013 and 2014 CIS Final 8 Men's Basketball Championships, (iii) 2013 IIHF Women's World Ice Hockey Championship, (iv) the 2012 NHL All-Star Game, and (v) the 2005 and 2008 NHL Entry Draft.
- The Bell Sensplex is a 180,000 square foot facility that has four ice sheets, a fieldhouse, the Sports Medicine Centre, Peak Academy, Stanley's Restaurant and offers meeting space for rent. Past and present events held at the Bell Sensplex include Autism Speaks Canada Walk, Christmas Craft Show, Home and Garden Shows, Snowmobile Shows and Consignment Shows. In a one-year period, the Bell Sensplex hosted 36 hockey tournaments (not including the Bell Capital Cup) which attracted 630 out-of-town teams who spent an average of 2.92 days in the region. Similarly, the Bell Capital Cup annually attracts more than 200 out-of-town teams, including from the United States, who bring significant positive economic impacts to the area.



- The Thunderbird Sports Centre is Ottawa's only lighted nine-hole golf course offering extended play beyond the regular hours of any other course in the city.

### **Reliance on Tourism**

More than twenty-five percent (25 per cent) of retail businesses located at Tanger are directly reliant on the tourists that visit the nearby attractions and bus tours that come to the mall. This meets the requirement identified in section 2(2)(c) of the Tourism Criteria Regulation under the *Retail Business Holidays Act*.

### **Conclusion**

This report recommends that, in the interest of maintenance and development of tourism in Ottawa, City Council enact a By-law as set out in Document 1 to exempt Tanger from the store closure requirements of the *Retail Business Holidays Act* for the following reasons:

- All retail businesses within Tanger are located within two kilometres of multiple tourist attractions;
- The application provides sufficient rationale to support exemption for retail establishments;
- Such an exemption presents economic development opportunities for the local retail sector, and ancillary businesses such as hotels and restaurants, which support the advancement of Ottawa's tourism economy; and
- Drawing shoppers from Eastern Ontario, the Ottawa Valley and Western Quebec on a regular basis indicates that Tanger is a tourist destination.

Staff agree that, considering the ongoing COVID-19 pandemic and the challenges that it brings to the tourism and retail economies, the exemption by-law would also help provide economic recovery assistance to the Tanger Outlets and, by extension, the local economy.

### **RURAL IMPLICATIONS**

There are no rural implications associated with this report.

### **CONSULTATION**

In preparation of this report, Economic Development and Long-Range Planning provided information related to the Retail Business Holidays Act and notice of the report

rising to Committee and Council to the local Board of Trade, Business Improvement Areas, and Ottawa Tourism. Economic Development and Long-Range Planning also consulted with the Vice-President of Development from RioCan Management Inc., the City Clerk and Solicitor Department, and the Development Review Branch of the Planning, Infrastructure and Economic Development Department. As required by the Retail Business Holidays Act, public notice of the consideration of this report was provided by way of advertisements in two daily newspapers.

### **COMMENTS BY THE WARD COUNCILLOR**

Councillor Sudds provided the following comment:

“As a destination shopping centre serving the residents of our city and beyond, I strongly support this application for an exemption to the Business Holidays Act.”

### **LEGAL IMPLICATIONS**

There are no legal impediments to approving the recommendations in this report.

### **RISK MANAGEMENT IMPLICATIONS**

There are no risk implications.

### **ASSET MANAGEMENT IMPLICATIONS**

There are no asset management implications.

### **FINANCIAL IMPLICATIONS**

The proposed fee revenues will fund costs associated with the application.

### **ACCESSIBILITY IMPACTS**

There are no accessibility implications.

### **TERM OF COUNCIL PRIORITIES**

The recommendation in this report supports the following strategic priority of City Council:

**Economic Growth and Diversification:** Encourage economic growth and diversification by supporting business investment and expansion, talent attraction and

retention, showcasing the city's bilingual and multicultural character, and branding Ottawa as a place to be

## **SUPPORTING DOCUMENTATION**

Document 1 Proposed Exemption By-law for Tanger Outlets Ottawa

## **DISPOSITION**

Upon approval, Economic Development Services together with the City Clerk will have the exemption By-law as set out in Document 1 enacted by Council. Pursuant to s. 4(8) of the *Retail Business Holidays Act*, the By-law will come into force on the 31st day after it has been enacted, unless an appeal of the By-law has been commenced at the Local Planning Appeal Tribunal (LPAT). If an appeal is commenced, the By-law will not come into force until the appeal has been addressed by LPAT as required under the *Retail Business Holidays Act*. Economic Development Services together with the City Clerk will also include the fee in the appropriate by-law and place such by-law on the agenda of Council for enactment.

**Document 1 – Proposed Exemption By-law for Tanger Outlets Ottawa**

BY-LAW NO. 2020 - XX

A by-law of the City of Ottawa to amend the *Regional Regulatory Code* to permit the retail business establishments located within the Tanger Outlets to remain open for business on specified holidays.

WHEREAS the *Regional Regulatory Code*, as originally adopted by By-law No. 313 of 1988 of the Regional Municipality of Ottawa-Carleton, and as amended, regulates the opening of certain retail businesses and business areas on prescribed holidays pursuant to the authority provided to municipal councils under the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, as amended;

AND WHEREAS Council has determined that the retail businesses located within the Tanger Outlets located on Campeau Drive in the City of Ottawa are tourism-dependent and contribute to the maintenance and development of tourism in the City of Ottawa if exempted from the mandatory holiday closure provisions in the *Retail Business Holidays Act*, and in all respects meet the requirements for an exemption under the said Act and the Tourism Criteria Regulation passed under it;

AND WHEREAS Council has taken into account the principle that holidays should be maintained as common pause days;

AND WHEREAS the provisions of the *Retail Business Holidays Act* with respect to the holding of a public meeting and the publication of notice of the meeting have been met;

NOW THEREFORE the Council of the City of Ottawa enacts as follows:

1. The Index of “Chapter 8 – Store Hours” of the Regional Regulatory Code, as adopted under the authority of By-law No. 313 of 1998 of the Regional Municipality of Ottawa-Carleton and as amended, is amended by adding the following heading and Sections in the Index:

PART 8.9 – TANGER OUTLETS OTTAWA

8.9.1 Definitions

8.9.2 Exemption from Statutory Closing Provisions: Tanger Outlets  
Ottawa

2. “Chapter 8 – Store Hours” of the said Regional Regulatory Code is further amended by adding the following Part 8.9 immediately following Part 8.8:

8.9 TANGER OUTLETS OTTAWA

8.9.1 DEFINITIONS

- (1) “holiday” means,
  - (a) New Year’s Day;
  - (b) Good Friday;
  - (c) Victoria Day;
  - (d) Canada Day;
  - (e) Labour Day; and
  - (f) Thanksgiving Day.
- (2) “retail business” means the selling or offering for sale of goods or services by retail;
- (3) “retail business establishment” means the premises where a retail business is carried on;
- (4) “open for business” means permitting members of the public to be admitted to the premises offering goods and services for sale by retail and/or selling goods or services by retail; and,
- (5) “retail area” means the Tanger Outlets Ottawa identified in Schedule “A”, attached, which forms part of this by-law.

8.9.2 EXEMPTION FROM STATUTORY CLOSING PROVISIONS:

TANGER OUTLETS OTTAWA

Section 2 of the *Retail Business Holidays Act* shall not apply to any retail business establishment in respect of the sale by retail of any goods or services on a holiday in the retail area.

3. (1) Should this by-law not be appealed to the Ontario Municipal Board pursuant to the provisions of the *Retail Business Holidays Act*, it will come into force on the 31<sup>st</sup> day after it is finally passed.
- (2) Should this by-law be appealed to the Ontario Municipal Board, it shall come into force in accordance with subsection 4.3(5) of the *Retail Business Holidays Act*.

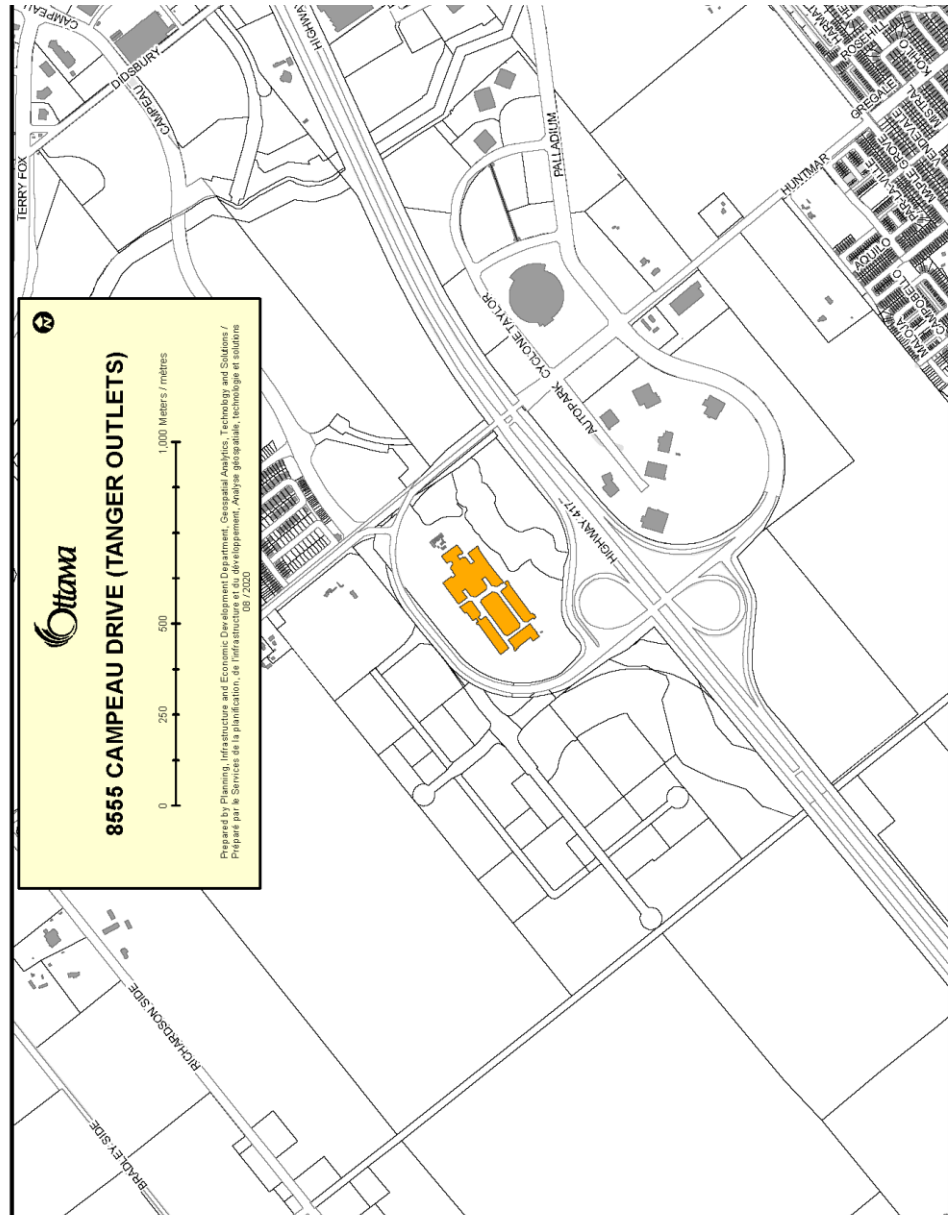
ENACTED AND PASSED this    day of September 2020.

CITY CLERK

MAYOR

SCHEDULE A

The Tanger Outlets Ottawa, located on Campeau Drive, in the City of Ottawa, as more particularly outlined in the map below:



BY-LAW NO. 2020 –

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A by-law of the City of Ottawa to amend the  
*Regional Regulatory Code* to permit the retail  
business establishments located within the Tanger  
Outlets Ottawa to remain open for business on  
specified holidays.

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Enacted by City Council at its meeting of

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**LEGAL SERVICES**

JP

COUNCIL AUTHORITY:

City Council –

Agenda Item

(FEDCO Report No. )