Bailey, Duskin & Peiffle, P.S.
ATTORNEYS AT LAW

STEVEN J. PEIFFLE
Steve@snolaw.com

103 NORTH STREET
POST OFFICE BOX 188
ARLINGTON, WA 98223-0188

PHONE (360) 435-2168
FAX (360) 435-6060

May 14, 2020

Power Alley Fitness, Inc.
ATTN: Mr. Michael Jellison
3131 Smokey Point Dr.
Arlington, WA 98223

via email to mrjellison@hotmail.com

Re: Power Alley Fitness
My client: City of Arlington, WA
Our File No. 27-765

Dear Mr. Jellison:

I am the City Attorney for the City of Arlington, Washington. In recent days media publicity and your own communications with the City indicate that you have opened Power Alley Fitness at the above address in violation of the Governor's "stay at home" proclamations.

The City of Arlington is vitally concerned with the health of its residents. While the cooperation of the citizens has helped to "flatten the curve" of new infections from the COVID-19 virus, reported cases and data from sources such as the Snohomish Health District confirm that instances of the virus continue to rise within the City of Arlington.

Under the Governor's Proclamation #20-25.3, the Governor's "stay at home" order was issued through May 31, 2020 unless specifically repealed. Gyms and fitness centers are scheduled to open in "Phase 3" of the Governor's "Safe Start Washington Re-opening Plan", but are not currently allowed to be open.

The Governor's order was issued under the authority of state law, RCW 43.06.220, which was originally enacted in 1969. The Governor's proclamations have been lawfully extended by bi-partisan action of the state legislature under RCW 43.06.220. Its constitutionality has been upheld against constitutional challenges in the Washington State Supreme Court. Under RCW 43.06.220, a violation of a Governor's emergency order or proclamation constitutes a gross misdemeanor.

In addition, your city business license and city ordinance requires that you not permit or knowingly:

> [Conduct, engage in, or operate] the business on premises or in a manner that does not conform to city, county, state or federal laws; [or operate] the business in such a manner as to constitute a public nuisance, or has or will result in a danger to the public health, safety or welfare…"

Arlington Municipal Code (AMC) 5.28.170. Violation of these provisions constitute grounds for revocation of your business license. In addition, the City has the right to impose a daily penalty, to seek an injunction from a court, or to refer the issues to the prosecutor for consideration of criminal prosecution.

The City is mindful that the COVID pandemic has inflicted a tremendous cost on business owners, City residents, and taxpayers of all kinds. It is not the City's desire to inflict greater harm on its citizens. However, in acting to enforce regulations, the city is interested in protecting the entire population, including the most vulnerable of its citizens who may be adversely affected by even well-intentioned business owners acting in their own best interests.

The purpose of this letter is to put you on notice that you are violating the provisions of state law and City code. The City would be happy to provide assistance to ensure that you have access to relief programs and education about best practices for re-opening when it is determined to be safe. The City prefers to work with you rather than against you in these extraordinary times. However, the City must also ask that you honor the Governor's order to protect your own customers, staff and the citizens of Arlington.

Very truly yours,

BAILEY, DUSKIN & PEIFFLE, P.S.

Steven J. Peiffle
City Attorney

SJP/ms

Cc: Paul Ellis, City Administrator
City Council