

AN OPEN LETTER FROM A PASTOR TO DR.
BONNIE HENRY & MINISTER ADRIAN DIX
RE: COVID-19 RESTRICTIONS ON RELIGIOUS
GATHERINGS

FEBRUARY 11TH, 2021

To: Dr. Bonnie Henry (Provincial Health Officer of B.C.)

To: Adrian Dix (Minister of Health for B.C.)

Dear Dr. Henry and Minister Dix,

I would like to begin this letter by expressing my deep appreciation for the work that both of you and your teams have done in serving British Columbians throughout this COVID-19 pandemic. Despite the virulent spread of COVID-19 in other parts of the world, our provincial healthcare system has not been overwhelmed in no small part due to your tireless efforts. My sincere gratitude for your labours is echoed by members of my congregation and our church's entire leadership team. Our church prays for you regularly—that God would give you wisdom and strength and bless your endeavours—for the sake of all British Columbians.

Before sharing our concerns, let me say that our church leadership team has always strongly supported your public health goals. We have endeavoured to obey all public health orders. We have been livestreaming “virtual” services during the months when in-person gatherings were not permitted. Indeed, our church has gone above and beyond the government's COVID safety regulations because we care deeply about the safety of our congregation and the broader community. In March 2020, before the government required us to do so, we elected to shut down our services in response to COVID deaths at a nearby seniors' home. Once in-person gatherings were permitted, we adhered to the government's 50-person limit per venue, pre-registered and performed health checks on attendees, and implemented seating plans in which every household or family sat together but was socially-distanced well apart from other households. In addition, our church leadership instituted a mandatory masking policy for all in-person gatherings *before* the B.C. government issued its mask mandate.

We say all this not to praise ourselves but simply to help you understand—despite our expressions of grave concern below—that we are genuinely thankful to God for the important work of our Provincial Health Officer and our Minister of Health, and we wish to *cooperate* with you in seeking the health and well-being of all British Columbians. Our core function as a church is not just worshiping God as a congregation, but also loving our neighbour and serving our fellow citizens to help allay the great suffering wrought by the COVID pandemic.

In order for the church to fulfill its duty to God and our fellow citizens, there must be some opportunity for church members to gather (under suitable COVID safety protocols). The B.C. government, however, has disallowed virtually all in-person religious gatherings and has

made no visible effort to develop safety protocols to facilitate such gatherings. Moreover, following your issuance of public health orders between November 19, 2020 and February 5, 2021, we have noticed a number of unfair disparities and inequalities arise as between your treatment of *religious* in-person group gatherings and *non-religious* group gatherings. Your orders *prohibit* in-person religious gatherings for most purposes, including corporate worship, while simultaneously *permitting* in-person gatherings in many non-religious settings even though the COVID transmission risk in those other settings is not demonstrably lower:¹

- (a) Pubs, coffee shops and restaurants are allowed to gather and serve groups of patrons liquor, coffee and/or food if they follow specific straightforward rules to reduce the risk of COVID transmission (*e.g.*, six patrons maximum per table from a single household; wearing masks when not at a table; groups are separated from other groups by 2 metres, etc.), but churches cannot gather in-person to serve a simple Communion “meal” under *any* conditions.²
- (b) Exercise studios and gyms are permitted to gather patrons to perform low-intensity exercises—*even without masks*—if such gyms limit the total attendees, ensure that sufficient physical distance is maintained, amplify instructors with microphones and lower music volume “in order to reduce singing or shouting,” clean and ventilate the premises, and post special signs and floor markings.³ In contrast, worshippers cannot gather for congregational prayer, even if they follow all the same rules as gyms, and, in addition, *wear masks*.
- (c) Perhaps the strangest discrepancy is that religious organizations that provide food to people in need, or run support groups, are permitted under the current health orders to have up to 50 individuals on-site.⁴ Indeed, our own church distributes food to the needy. While doing so, we can host up to 50 persons. Inexplicably, the same persons cannot gather for worship even under the most careful COVID-safety protocols. This glaring disparity has not gone unnoticed and begs the question: why are such gatherings, within the same building, and many times in the exact same space, considered COVID-safe—whereas religious services are not? In November, Vancouver’s Catholic Archbishop, J.

¹ Province-Wide Restrictions, <<https://www2.gov.bc.ca/gov/content/safety/emergency-preparedness-response-recovery/covid-19-provincial-support/restrictions>> (last visited February 7, 2021) (“In-person religious gatherings and worship services of any size are prohibited.”). See also Order of the Provincial Health Officer, *Gatherings and Events*, February 5, 2021, <<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-gatherings-events.pdf>> (last visited February 7, 2021).

² Order of the Provincial Health Officer, *Food And Liquor Serving Premises And Retail Establishments Which Sell Liquor*, December 30, 2020, <<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-nightclubs-food-drink.pdf>> (last visited February 7, 2021)

³ B.C. Centre for Disease Control, *Public Health Guidelines for Group Low Intensity Exercise*, December 14, 2020, <<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-public-health-guidelines-low-intensity-exercise.pdf>> (last visited February 7, 2021)

⁴ See Part C of Order of the Provincial Health Officer, *Gatherings and Events*, February 5, 2021, at <<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-gatherings-events.pdf>> (last visited February 7, 2021)

Michael Miller, indicated that there had been no reported cases of COVID transmission in Catholic churches and noted, “In light of this record within the archdiocese, it is puzzling, to say the least... why our facilities can be used—and we are delighted that they are—for meetings such as AA in the basement, while not even limited worship can take place upstairs in the church.”⁵

- (d) Even if religious gatherings were somehow more dangerous than the above-mentioned (permitted) group activities—which they are not—the Ministry has made no effort to provide new COVID guidelines that would facilitate safe in-person religious group activities. In contrast, the Ministry has prepared updated COVID safety plans to allow in-person *non-religious* activities to continue to operate. For example, when you prohibited certain high-risk group fitness activities during your November 19, 2020 COVID-19 update, you promised to finalize and post new COVID safety guidelines for a “narrowed” set of lower-risk group fitness activities.⁶ The promised guidelines were issued in less than a month (December 14, 2020).⁷ Furthermore, Dr. Henry, you indicated that you had “tasked a group” of experts to study indoor exercise activities to determine *what* indoor exercises could be safely performed and *how*. In contrast, the Ministry has now had more than two-and-a-half months to develop and post new COVID safety guidelines for religious organizations. It has not done so.

B.C.’s health orders treat religious and non-religious group activities differently, but not because their respective public health risks are demonstrably different. How is transmission risk any *different* when multiple tables of people are listening to a live band playing in a pub, separated by 2-3 metres (as permitted in your orders⁸), *compared to* when multiple families are listening to a pastor lead a church service, separated by 2-3 metres (as currently prohibited)? Likewise, I cannot see how a group fitness class of 25 people can exercise in a room more safely *without masks* (as permitted in your orders⁹)—despite their increased respiratory rate—than a congregation like ours, which wears masks at its gatherings and merely sits quietly. If it be argued that singing in church poses a significant risk, I think it is only reasonable to ask whether merely a few *minutes* of singing once a week—even accompanied by wearing face masks (as our church has practiced)—is as dangerous as multiple, random groups of people exercising in a communal space, every day, all week long, and without face masks. Would our congregation be eligible to meet together if it refrained from singing, or if it added some light physical stretching on Sunday morning, and followed the exact protocols of a local gym? Furthermore, when our church members meet together to prepare food distribution for the

⁵ See CTV news report dated November 22, 2020 at <<https://bc.ctvnews.ca/catholic-archbishop-of-vancouver-criticizes-b-c-s-new-covid-19-rules-for-religious-services-1.5200090>> (last visited February 7, 2021)

⁶ See Dr. Bonnie Henry and Adrian Dix, Minister of Health, Presentation “COVID-19 BC Update, Nov 19,” video at <<https://www.youtube.com/watch?v=P00avsC7KPo>> (time: 26:18 to 30:33)

⁷ See footnote 3 above.

⁸ See Section B, paras. 8-12 and 24-25 of Order of the Provincial Health Officer, *Food and Liquor Serving Premises and Retail Establishments Which Sell Liquor*, December 30, 2020, available online at:

<<https://www2.gov.bc.ca/assets/gov/health/about-bc-s-health-care-system/office-of-the-provincial-health-officer/covid-19/covid-19-pho-order-nightclubs-food-drink.pdf>> (last visited February 9, 2021)

⁹ See Public Health Guidelines, footnote 3, at p. 6 (“Masks can be encouraged to be worn during exercise, but not required”)

needy, you trust them to follow safety protocols (and they do), but then why can't they be trusted to follow safety protocols equally well when meeting for other structured activities?

Thus far, our argument has not expressly invoked *Charter* rights; rather, our argument is based on widely-accepted notions of fairness and the equal treatment of all citizens. Nevertheless, we noticed that the latest version of the public health order entitled “*Gatherings and Events*” (dated February 5, 2021) acknowledges, for the first time (in paragraphs 9 and 10), that your public health orders implicate the constitutional guarantees in s. 2 of the *Canadian Charter of Rights and Freedoms* (“the *Charter*”).¹⁰ But insofar as paragraph 10 attempts to defend the limits you have imposed, by calling them, “proportionate, precautionary and evidence-based restrictions to prevent loss of life, serious illness and disruption of our health system and society,” we respectfully disagree. As explained above, the public health order permits organizations to perform non-religious group activities, while denying religious organizations the right to do activities that have similar, or even lower, risk profiles for COVID-transmission. We respectfully submit that it is fundamentally unfair for the Ministry of Health to prohibit religious groups from engaging in activities having a risk profile that is *as safe as* (or safer than) group activities that the Ministry has already approved. As illustrated in the B.C. Centre for Disease Control’s *Public Health Guidelines for Group Low Intensity Exercise*, the risk of COVID-19 can be substantially reduced by following a COVID-19 safety plan that tailors the proposed activities based on multiple levels of infection control measures.¹¹ The Ministry of Health should help religious organizations to prepare a thorough COVID-19 safety plan for their proposed activities (*e.g.*, along the lines of the approved safety protocols in your public health orders). Religious organizations should then be responsible for appointing persons who will structure and supervise the proposed group activities in accordance with the safety plan.

The B.C. government has explicitly (and commendably) acknowledged in B.C. Regulation 204/2020 that religious organizations provide essential services in B.C.¹² But if religious organizations are deemed to be essential, it begs the question: how is it that non-essential services can operate with the government-approved safety protocols throughout the week, all day long, whereas a church cannot provide a core part of its essential services under *any* safety protocol, even if it occurs only *once* a week and for a *short period of time*? To be crystal clear, we are not asking for any *special* treatment—we simply want to operate under the *same rules* as you have already approved for other in-person group activities. Alternatively, if you believe the COVID-safety protocols for the already-approved group activities are inadequate (*e.g.*, for in-person worship services), please provide us with updated guidelines to follow. Or simply tell us how we can tweak our previous safety protocols (see page 1 above) to make them better. We are not seeking to be exempt from any reasonable, proportionate and scientifically-grounded safety measure; on the contrary, our church is committed to following best practices

¹⁰ Previous versions of this Order did not contain any acknowledgement or reference to the *Charter*, as found in *The Constitution Act, 1982*, Part I <<https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html#freedoms>>

¹¹ See footnote 3 at pp. 3-6.

¹² *COVID-19 Essential Services* (Last updated: December 10, 2020), as found online at: <<https://www2.gov.bc.ca/gov/content/safety/emergency-preparedness-response-recovery/covid-19-provincial-support/essential-services-covid-19#non-health>> (last visited February 9, 2021)

for safety. We hope you will agree that the Ministry should not discriminate against religious activities, organizations or individuals in the dissemination of safety protocols, or ask religious persons to bear a disproportionate burden compared to other citizens by asking them to completely forgo activities that could be rendered safe through such protocols.¹³ Dr. Henry, as a medical expert, we are asking you to *please* give us the tools we need to reopen our church.

Ironically, the B.C. government's restrictions on religious activities inadvertently communicates to the public that religious activities are less valuable to society than non-religious activities, thereby contradicting the government's own recognition, in B.C. Regulation 204/2020, that religious activities are "essential" and have "the purpose of benefiting the community."¹⁴ Throughout this COVID-19 crisis, our own church has seen a rise in individuals from the community coming to seek our help with various issues including anxiety, depression, poverty, domestic conflicts, job security, addictions, and a host of other problems—and we have done our best to serve them. Faith organizations do much good work that the public never hears about. For example, a 2016 study of churches in Toronto tried to quantify the benefit and showed that ten Ontario churches with a combined budget of \$10 million dollars produced an economic value to the city that was close to \$45 million dollars.¹⁵ Yet the current restrictions undermine churches' ability to serve their communities.

Moreover, the B.C. government's unequally-applied public health policies are inadvertently contributing to a growing level of prejudice, negativity, suspicion and distrust in our society that is directed towards not just Christians, but religious people in general. What *public perception* is fostered by the fact that religious organizations have had stringent limitations imposed on them that severely undermines their ability to operate, while pubs, restaurants, businesses, gyms and group exercise classes continue to operate? It potentially suggests that the government sees religious organizations and individuals as less trustworthy or as less likely to follow COVID-safety protocols, or even that religious persons, far from being valuable allies in the fight against COVID-19, are part of the problem. Despite the fact that our church has followed public health orders, we have had individuals coming onto our church property, peering through the windows, pulling into our driveway and asking if we were meeting, among other things. In December, we were reported to the District of North Vancouver for alleged violations based on the number of cars in our parking lot—which is shared with nearby apartments. A bylaw officer called us midweek to question us and then another bylaw officer showed up on Sunday to verify that we were in compliance. I assured her that we were not over the 10-person limit for livestreaming and invited her to enter our building to see for herself, however, she opted to stand outside and observe us from a window.

Now, some religious people have become frustrated at the apparent injustice and have taken matters into their own hands by choosing to break the rules. Although I can sympathize with

¹³ See *COVID-19 Ethical Decision-Making Framework*, December 24, 2020, B.C. Centre for Disease Control, B.C. Ministry of Health, at p. 5, regarding "Distributive Justice" and the "Just distribution of benefits and harms, risks and burdens" ("**Public health measures... [s]hould not place unfair burdens on particular individuals and/or segments of the population**"), posted online at: <http://www.bccdc.ca/Health-Professionals-Site/Documents/COVID-19_Ethical_Decision_Making_Framework.pdf> (last visited on February 11, 2021)

¹⁴ See footnote 12 above.

¹⁵ Philip Milley, *Economic Value of a Church*, Canadian Centre for Christian Charities, summary at: <https://www.cccc.org/news_blogs/noteworthy/2016/07/15/economic-value-of-a-church/>

their frustrations, I, along with many other religious leaders, do not condone such behaviour and have not led our members to do the same. Nevertheless, if the B.C. government continues not to provide any means or conditions whatsoever under which devout believers can manifest their faith, it will fuel further unnecessary and unproductive confrontations between the government and those who believe the government is preventing them from obeying God's will. Escalating the conflict will cause the relationship between faith communities and the government to deteriorate but will not help anyone in the battle against COVID-19.

Dr. Henry and Minister Dix, public health should not be *in conflict with* religious freedom or equality. You need not make an “either/or” choice between the two. *Both* objectives are essential. *Both* objectives should be earnestly pursued by *both* religious organizations and the government. Our church wishes to do whatever it takes to avoid jeopardizing the health and safety of others while fulfilling our duty to serve our God and community faithfully as a congregation. Likewise, we respectfully submit that the government should champion, not jettison, religious freedom and the equality of all religious persons—whether they gather in churches, gurdwaras, mosques, synagogues or temples—while pursuing the critical good of public health. May God keep our land, glorious and free. *A Mari Usque Ad Mare.*

Pastor Samuel Chua
Westlynn Baptist Church