



April 16, 2021

Ms. Suzanne Ludlow, City Manager  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park MD 20912

RE: April 15, 2021 NDC Demand That Co-op Immediately Cease Deliveries On  
City Lot; and  
Notice of Termination of Sublease

Dear Ms. Ludlow:

Yesterday evening at 7:38 PM, NDC through legal counsel emailed a letter to Co-op President Diane Curran. That letter:

1. Demands that “effective immediately” the Co-op “CEASE AND DESIST LOADING AND UNLOADING ACTIVITIES” on the City Lot; and
2. Provides 30 days Notice of Termination of the Sublease.

The Sublease at issue references the City Lot adjoining the Co-op, where the Co-op has received deliveries since 1998 without incident. NDC cites a “Site Conditions and Limitations Report,” (“City Report”) posted on the City’s website since March 10, 2021 as the basis for its actions.

The City Report asserts that the Co-op has violated vehicle laws and operating standards and alleges certain safety concerns (“City Allegations”). Coop Manager Mike Houston has repeatedly requested in writing and verbally that you provide him with the laws, standards, and specific facts in support of the City Allegations. To date you have provided no substantive response. Based on the Co-op’s independent review and analysis, we have concluded that there is no basis in law for the City’s claims and no basis in fact for its factual assertions.

The City Allegations were published under the authority of the City of Takoma Park on City letterhead, posted on the City website, and carry weight with Co-op members and shoppers and the public at large. They remain posted on the City’s website, have been cited at City Council meetings and circulated widely on Takoma Park Facebook groups and well-read neighborhood listservs, and as of this morning remain posted on the City website.

The City Allegations disparage Mike Houston’s professional reputation as well as the Co-op’s well-established business good will. NDC’s demands, if carried out, will directly result in immediate and severe economic repercussions to the Co-op, and likely disruptions to delivery services. Accordingly, Co-op members, shoppers, and others in the community will face the loss of reliable local access to food and household supplies. NDC’s actions, and these ensuing harms, directly result from the City’s intentional refusal – for more than a month – to correct the City Allegations and instead leave them posted online.

We ask that you immediately advise NDC that the City Allegations are unfounded and direct NDC to rescind its April 15, 2021 letter. Please be advised that if NDC fails to rescind its demands by 5:00 PM Thursday, April 22, the Co-op will have no choice but to pursue its legal remedies as appropriate.

To make sure that the record is clear, Mr. Houston has been highly responsive to the City Allegations. Since the City Report was posted, Mr. Houston has twice in written correspondence (attached), and twice verbally (in telephone conversations with you on March 15 and April 7, 2021) asked that the incorrect and/or unsupported statements in the Fact Sheet pertaining to the Co-op's current delivery practices be corrected or supported in the following ways:

1. The Fact Sheet incorrectly asserts that left turns across a double yellow line to enter or exit the parking lot are illegal. Such turns are not illegal per page 17 of the Maryland Driver's Manual. Mr. Houston has repeatedly asked you to correct this erroneous statement, to no avail.
2. The Fact Sheet and your March 17<sup>th</sup> letter vaguely assert that the Co-op is violating "standards," without providing references to those standards. For instance, your March 17 letter refers to "the standards for large vehicle circulation," and the Fact Sheet references "transportation design standards" as they pertain to large vehicle movement. Mr. Houston has asked you several times for citations to these standards, but you have not supplied them. It is reasonable to expect that a public official would verify the legal basis for such serious accusations before making them, and yet you have not provided them in over a month. Thus, we can only conclude the standards do not exist. Your assertions that the Co-op's deliveries violate these undocumented standards should be removed immediately from the City's website.
3. The Fact Sheet references 18-wheel delivery trucks backing out of the parking lot into Route 410. Mr. Houston has repeatedly asked for specific information regarding this assertion, including date, day of the week, time, logo on truck or anything that would help him to confirm that the event occurred or how it happened. Again, over a month has passed since Mr. Houston requested this information, but you have not provided it. We now reasonably assume it does not exist, and request that you remove the claim from the City's website immediately.
4. The language of the fact sheet also implies that backing of trucks into Route 410 is an ongoing and regular practice of our deliveries. Mr. Houston has confirmed that this simply is not true. He has asked for the contact information of any individual(s) that claim to have seen this type of activity, as it is patently unfair for the City to level accusations against the Co-op based on purported representations by an unnamed third party.

Moreover, Mr. Houston took many proactive steps to address the City Allegations. In email communications with both State Highway Administration (SHA) and Montgomery County Department of Transportation (MCDOT) he inquired whether either of those agencies had any safety or circulation concerns about the Co-op's current use of the Junction lot, but they did not respond with any information raising a concern. He asked you directly for additional clarification from the City to understand the issues presented in the Fact Sheet and your March 17 letter, which you did not provide. He responded proactively to concerns raised by the City immediately after being notified that the City Allegations has been posted on the City website. He reopened the Co-op's Sycamore Avenue-side parking lot for customer parking to help improve circulation in the Junction parking lot during busy times and thereby addressing the concerns raised in the Fact Sheet. Additionally, although Small Things Matter had been using the Sycamore Avenue-side lot for food distributions, Mr. Houston moved these distribution activities to the location behind the store where they were carried out pre-Covid.

Copies of Mr. Houston's correspondence with you are attached.

On behalf of the Co-op I continue to request that you update the City Report by correcting its now-apparent errors about the Co-op's compliance with legal requirements, and trust that under the current circumstances you will this time address this matter with the urgency it merits.

Finally, please be advised that the Co-op has fully complied with all aspects of the Sublease. Additionally, the Co-op has fully complied with the Cooperate Agreement that was signed at the conclusion of the mediation process, and which also remains in full force and effect. NDC has no lawful basis whatsoever for the actions it seeks to take against us.

We await your corrections to the City website and your instruction to NDC to rescind its April 15, 2021 letter. As stated above, if NDC fails to rescind its demands by 5:00 PM Thursday, April 22, the Co-op will pursue its legal remedies as appropriate.

Sincerely,

Michele McDaniel Rosenfeld

Cc: Diane Curran, President, TPSS Co-op  
Mike Houston, General Manager, TPSS Co-op  
City of Takoma Park Mayor Kate Stewart  
All City of Takoma Park Councilmembers  
Joel Bonder, Esq.



TPSS Co-op

March 17, 2021

Ms. Suzanne Ludlow, City Manager  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park MD 20912

RE: Fact Sheet re Takoma Junction Site Conditions and Limitation

Dear Ms. Ludlow:

I am writing on behalf of the Takoma Park-Silver Spring Food Co-op in response to the discussion related to delivery vehicles in the above-referenced "Fact Sheet." The Fact Sheet, dated March 10, was posted earlier this month on the City's website. I also appreciated the opportunity to discuss the Fact Sheet in our meeting on Monday, March 15. Because the Fact Sheet raised written concerns about our operations that were posted on the City's website, I would ask that you also post this letter on the City website, so that the Co-op's response to these issues can be made available to members of the public.

As you know, the Co-op has used the City-owned parking lot on our building's west side for deliveries for more than 20 years. In my three years as General Manager, we have had no safety issues with deliveries, and I was not informed of any previous problems. Thus, it was very troubling to learn, via the Fact Sheet, that the City now believes the Co-op's use of the parking lot next to the Co-op for deliveries creates "unsafe conditions."

I can assure you that the Co-op has every interest in ensuring the safety of all pedestrians, bicyclists and motorists in the parking lot and on the public sidewalks and streets. We respond as quickly as possible to any safety concerns that are brought to our attention, because we want to be good neighbors to City of Takoma Park residents. We also want to be good stewards of the lot we currently sublease from the City's tenant, the Neighborhood Development Company.

As we discussed, I was previously unaware of any situations in which 18-wheel trucks have been observed backing into MD Route 410 traffic. I agree that any such occurrence would pose a safety hazard. Therefore, I plan to address your concern by re-opening the Sycamore Avenue-side parking lot, which has been closed for the past year as part of our Covid-19 response. The closed Sycamore lot was used for socially distanced queuing, out-door grocery pickup, and twice-monthly distribution of food assistance boxes to large

numbers of food-insecure individuals and families. We will now use other spaces for those activities. By opening the Sycamore lot, we will free up more parking space on the City-owned parking lot, thereby giving delivery trucks more room to maneuver. In effect, we will return the City-owned parking lot to its pre-pandemic role of providing overflow parking for the Co-op and parking for patrons of other Takoma Junction businesses.

In addition, I would be pleased to work with the City and the State Highway Administration to seek installation of appropriate signage and other enforcement measures in order to prohibit left turns upon entering or exiting the City-owned parking lot on Md Route 410. Please contact me at your earliest convenience about this matter.

Thank you for your consideration, and I look forward to working with you to address any concerns you may have about the safety of our deliveries.

Sincerely,

Mike Houston  
General Manager

Cc: Mayor Stewart  
All City Councilmembers



*TPSS Co-op*

March 31, 2021

Ms. Suzanne Ludlow, City Manager  
City of Takoma Park  
7500 Maple Avenue  
Takoma Park MD 20912

RE: Letter to Mike Houston 03172021

Dear Ms. Ludlow,

I am writing to follow up on your March 17 letter in response to my March 17 letter addressing the City's Fact Sheet.

In my letter, I offered to install signage and work with the City and SHA to address the issue of left-hand turns into and out of the Junction lot from Carroll Avenue by all vehicles, which the Fact Sheet described as illegal. We have been unable to find any prohibition against turning movements across a double yellow line. We ask that the Fact Sheet be corrected on this point and reposted on the City's website. Of course, the Co-op remains willing to work with the City and the SHA to address any legitimate safety concerns.

Both the Fact Sheet and your letter make other statements for which I still need additional information or clarification in order to address them. For instance, I have been unable to find anyone at the store who recalls seeing a delivery truck exit the Junction lot by backing into 410. If you could provide any information you can about when this was observed, date, day of the week, time of day or any information about the truck it would be helpful.

In addition, both your March 17 letter and the Fact Sheet state that the Junction parking lot has been deemed too small to meet "transportation design standards for deliveries," but I've been unable to find these standards. You referenced the City having studies from prior years that include this information. If you could pass along both the studies themselves and the underlying standards, it would help me to understand what specifically needed to be addressed about our current use of the lot.

In recent email communications with both State Highway Administration (SHA) and Montgomery County Department of Transportation (MCDOT), I inquired whether either of those agencies had any safety or circulation concerns about our current use of the Junction lot, but they did not respond with any information raising a concern. Therefore,

additional clarification from the City would help me greatly to understand the issues presented in the Fact Sheet and your March 17 letter.

As you know, I have responded proactively to concerns raised by the City as soon as I was informed of them. Since we last communicated, I opened up the Co-op's Sycamore Avenue-side parking lot for customer parking, to help improve circulation in the Junction parking lot during busy times, and thereby address the concerns raised in the Fact Sheet. While Small Things Matter had been using the Sycamore Avenue-side lot for food distributions, we moved these distribution activities to the location behind the store where they were carried out pre-Covid. We remain committed to working actively and responsively with the City on your concerns, and therefore we appreciate getting as much information as possible from you about the legal and factual bases for those concerns.

Lastly, I continue to request the City to post my March 17 letter, your March 17 letter, and this follow up letter to the City website in any location where the Fact Sheet is posted. I also continue to request you to update the Fact Sheet by correcting its now-apparent errors about our compliance with legal requirements and by providing any new and relevant information that results from our communication.

Sincerely,

Mike Houston  
General Manager

Cc: Mayor Stewart  
All City Councilmembers