

## BC Human Rights Tribunal

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Tribunal Stamp

## GENERAL INSTRUCTIONS

- For detailed instructions select the **Help** buttons as you go or check **All Instructions** now
- See the Tribunal's website for further information – [www.bchrt.bc.ca](http://www.bchrt.bc.ca)
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Email** us your form by attaching a saved copy and sending it to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of your Complaint Form and all of your documents

## For assistance with filing your complaint contact

### BC Human Rights Clinic

Tel: 604-622-1100

Toll-Free: 1-855-685-6222

[www.bchrc.net](http://www.bchrc.net)

### The Law Centre

Tel: 250-385-1221

[www.thelawcentre.ca](http://www.thelawcentre.ca)

## YOUR INFORMATION

FIRST NAME: ** Jordan		LAST NAME: ** Westfall	
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE):			
MAILING ADDRESS: ** [removed for privacy]			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** REMOVED
<p><b>Purpose of collecting contact information:</b> The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input checked="" type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the Respondent.</p>			
TELEPHONE: ** [removed]	FACSIMILE:	CELLULAR:	
EMAIL: [removed]			

## YOUR COMPLAINT

### STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a co-worker, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company you worked for, a newspaper, a school board, a trade union, a society or a strata corporation.

#### Respondent 1:

NAME: ** Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")			
RELATIONSHIP TO YOU: ** I represented a prospective tenant, CAPUD, in negotiations with a prospective office landlord, Aquilini			
MAILING ADDRESS: ** Aquilini Centre West, 89 West Georgia Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6B 0N8
TELEPHONE: ** 604-899-5398	FACSIMILE: 604-899-5399	CELLULAR:	
EMAIL: ** info@aquilini.com			

#### Respondent 2:

NAME: ** Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)			
RELATIONSHIP TO YOU: ** Mr. Hardisty was the Aquilini Group employee handling the prospective commercial tenancy			
MAILING ADDRESS: ** Aquilini Centre, Gate 16 in Rogers Arena, 800 Griffiths Way			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6B 6G1
TELEPHONE: ** 604-899-5329	FACSIMILE:	CELLULAR: 778-686-4154	
EMAIL: ** drew.hardisty@aquilini.com			

#### Respondent 3:

NAME: ** CBRE Limited, Real Estate Brokerage ("CBRE")			
RELATIONSHIP TO YOU: ** CBRE Limited was the commercial real estate firm CAPUD dealt with for the prospective commercial tenancy			
MAILING ADDRESS: ** 1021 West Hastings Street, Suite 2500			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6E 0C3
TELEPHONE: ** 604-662-3000	FACSIMILE: 604-684-9368	CELLULAR:	
EMAIL: ** Mark.Renzoni@cbre.com (email of the President & CEO)			



## Respondent 4:

NAME: ** Michael White, Realtor with CBRE				
RELATIONSHIP TO YOU: ** Mr. White was the realtor handling the prospective commercial tenancy for Aquilini				
MAILING ADDRESS: ** 1021 West Hastings Street, Suite 2500				
CITY: ** Vancouver			PROVINCE: ** BC	POSTAL CODE: ** V6E 0C3
TELEPHONE: ** 604-662-5120	FACSIMILE: 604-684-9368	CELLULAR: 604-818-7830		
EMAIL: ** michael.rm.white@cbre.com				

## STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

List the area(s) and ground(s) of discrimination that apply to your complaint:

Your complaint must show that the Respondent's conduct took place in an area of daily life protected under the *BC Human Rights Code*. These are called "**areas of discrimination**".

It must also show that you have a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**". These protected personal characteristics may be:

- actual (for example, your ancestry or age), or
- perceived (for example, someone thinks that you have or may develop a disability in the future, or makes homophobic comments regardless of your sexual orientation).

**Not all grounds of discrimination apply to all areas of discrimination.**

### Respondent 1: Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")

#### Area of Discrimination

- |  |  |  |                                   |
|--|--|--|-----------------------------------|
| <input type="radio"/> Accommodation, service or facility | <input type="radio"/> Employment         | <input type="radio"/> Employment advertisement | <input type="radio"/> Publication |
| <input type="radio"/> Purchase of property               | <input checked="" type="radio"/> Tenancy | <input type="radio"/> Unions and associations  | <input type="radio"/> Wages       |

"Tenancy" refers to renting an apartment, office or other space. It includes an application to rent a space, terms of a tenancy agreement, how you are treated by a landlord, and eviction.

#### Grounds of Discrimination

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Age                           | <input type="checkbox"/> Ancestry         | <input type="checkbox"/> Colour            | <input type="checkbox"/> Family Status                  |
| <input type="checkbox"/> Gender Identity or Expression | <input type="checkbox"/> Marital Status   | <input type="checkbox"/> Mental Disability | <input checked="" type="checkbox"/> Physical Disability |
| <input type="checkbox"/> Place of Origin               | <input type="checkbox"/> Race             | <input type="checkbox"/> Religion          | <input type="checkbox"/> Sex                            |
| <input type="checkbox"/> Sexual Orientation            | <input type="checkbox"/> Source of Income |  |   |

"Physical Disability" includes a physical condition that affects or is seen as affecting a person's abilities.

Details:\*\* Addiction and Drug Use

### Respondent 2: Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)

✓ The Area(s) & Grounds are the same as Respondent 1

### Respondent 3: CBRE Limited, Real Estate Brokerage ("CBRE")

✓ The Area(s) & Grounds are the same as Respondent 1

**Respondent 4:** Michael White, Realtor with CBRE

✓ The Area(s) & Grounds are the same as Respondent 1

### STEP 3: RESPONDENTS' CONDUCT

Answer these questions to show that the Respondent's conduct could be discrimination under the *Human Rights Code*

**Respondent 1:** Aquilini Investment Group (including at least three of its subsidiaries) ("Aquilini")

#### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
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Date (YYYY MM DD)**	What Happened? **
2018 01 22	<p data-bbox="253 149 391 180"><b>Background</b></p> <p data-bbox="253 212 1516 369">I am the President of the Canadian Association of People Who Use Drugs ("CAPUD"), a registered British Columbia non-profit society representing the interests of people with lived experience using drugs (both current and former). CAPUD is composed of members from across Canada and advocates nationally. On behalf of CAPUD, I submitted a conditional sublease (a subject removal form) for a sublease for office space at Suite 1210, 510 West Hastings Street, Vancouver, BC. The BC Centre for Disease Control ("BCCDC") agreed to finance the sublease on our behalf.</p> <p data-bbox="253 401 1528 653">The office space is owned by Proven Enterprises Ltd. (the "landlord"), which to my knowledge is a subsidiary corporation of Aquilini. The Indenture agreement provided to CAPUD stated that the landlord was care of (c/o) Aquilini Properties. The commercial real estate brokerage representing the landlord was CBRE Limited and the agent was Michael White. To my knowledge, Drew Hardisty, a manager with Aquilini Properties, had conduct over the sublease negotiations for the landlord. The previous tenant of the landlord, Solus Trust Company Limited, was the prospective sublandlord. Throughout the correspondence with Aquilini, I also corresponded with another Aquilini subsidiary, Canucks Sports and Entertainment, and particularly Susan Thompson of the Community Partnerships division.</p> <p data-bbox="253 684 545 716"><b>Events of January 22, 2018</b></p> <p data-bbox="253 747 1507 842">Mr. White emailed me to say that the sublandlord had satisfied their conditions and was ready to finalize the sublease and requested that I send a signed and dated "subject removal" document. I signed and sent the "subject removal". Later on this date, Mr. White sent a further email to me wherein he stated:</p> <p data-bbox="253 873 1490 905">"...Following a conversation with the Landlord, there are a couple questions that they are seeking some clarity on.</p> <ol data-bbox="253 936 1146 1031" style="list-style-type: none"> <li>1) will you be having active users visiting the office.</li> <li>2) to confirm no drugs will be on site.</li> <li>3) visitors to the office will be related to the advocacy and prevention of drug use.</li> </ol> <p data-bbox="253 1062 1468 1125">Sorry for the blunt questions, however the landlord wants to ensure a professional and safe environment for all tenants and visitors to the building..."</p> <p data-bbox="253 1157 647 1188">I responded to Mr. White by stating:</p> <p data-bbox="253 1220 1523 1314">"... fair questions and thank you for being upfront about it. It's actually why I wanted to introduce you to BCCDC. Our group does not do any direct service provision- so the office will not be an access point for needles, equipment etc.. We focus strictly on advocacy and public awareness.</p> <p data-bbox="253 1346 1533 1409">That being said, active users will be at the office at times because of the work we focus on policy work that is focused on overdose prevention.</p> <p data-bbox="253 1440 1533 1535">Much of our work is focused on overdose prevention, not drug use prevention, as well as educating government and policymakers about safer public health policy and how they can implement it. That's where BCCDC's sponsorship of the office comes in. Everything done at the office will be lawful, and there won't be any drug use.</p> <p data-bbox="253 1545 647 1577">Does that answer your questions?..."</p> <p data-bbox="253 1608 667 1640">Mr. White sent a further email stating:</p> <p data-bbox="253 1671 1516 1766">"...One further question- these active users, will they be "strung out". The landlord's big concern is regarding people who may agitated and act an inappropriate manner to visitors/tenants of the building or make them feel unsafe/ uncomfortable..."</p>

Date (YYYY MM DD) **	What Happened? **
2018 01 23	<p>I responded to Mr. White's email of the previous day by stating:</p> <p>"...anyone participating in our programming is lucid and won't cause trouble..."</p>
2018 01 25	<p>Mr. White telephones me and informs me that the landlord would be declining CAPUD's sublease based on the optics, to other potential tenants, of renting to a drug user group.</p> <p>In response, I wrote an email to Mr. White asking him "Can you confirm in writing that we were declined."</p>
2018 01 26	<p>Mr. Hardisty emailed me and Mr. White to inform about a further review of the CAPUD sublease, stating:</p> <p>"I apologize for the delay. After further internal conversations, I will be putting this in front of senior members of the Property Management team for further review as to ensure we are considering all the facts and giving your application the appropriate attention and consideration.</p> <p>We will continue to review the application and we hope to have a decision for you late next week, as some of the members are travelling.</p> <p>Please feel free to contact me or provide any information that you believe would be helpful for our review..."</p> <p>I responded by email to Mr. Hardisty stating:</p> <p>"Here's some info to help your decision: we literally just hosted a focus group for a Vancouver Canucks led anti stigma campaign to reduce overdose deaths. Your bosses own both this building and that hockey franchise. Your rental practices clearly are not in any way aligned with the interests of this campaign, despite the Canucks publicly partnering on an anti stigma campaign that we hosted focus groups for.</p> <p>This is a tense situation for both your organization and ours. We want to be respectful but also we feel manipulated and used. Publicly your bosses support our human rights and privately you discriminate in our access to office space. We want to build a relationship and continue partnering together..."</p>
2018 02 02	<p>I emailed Mr. Hardisty and Mr. White to inquire if a decision had been made following the review, asking:</p> <p>"...Has a decision been made?..."</p>
2018 02 08	<p>Mr. White forwarded to me an email from Mr. Hardisty to him of February 7, 2018, stating:</p> <p>"...The VP is still waiting for response from the Canucks on the relationship involved so we have all facts. He said he will inquire again tomorrow.</p> <p>Thank you for your patience..."</p>
2018 02 09	<p>I emailed Susan Thompson of Community Partnerships with Canucks Sports &amp; Entertainment stating:</p> <p>"...sorry for the tardy reply.</p> <p>Our organization hosted focus groups for the Ministry of Mental Health and Addictions on the Canucks anti stigma campaign. Unfortunately, we have recently found that we were turned down for office space in an Aqualini-owned building. From what we understand, we were denied on the basis that we a group of current and former users of drugs.</p> <p>This is not in line with the anti-stigma message that the Vancouver Canucks are currently doing. We hope that you will support our organization and speak to the landlords of this building..."</p> <p>On January 26, 2018, I had submitted a request through an online Formstack Community Relations Contact Form asking to speak with someone from the Canucks Community Partnerships division. Ms. Thompson had previously emailed me on January 29, 2018, asking me to further explain the situation. I did not receive any further response from Ms. Thompson.</p>

Date (YYYY MMDD) **	What Happened? **
2018 02 26	<p>Mr. White emailed me with an update from Aquilini, stating:</p> <p>"...I have spoken with the Landlord multiple times over the past couple weeks and have been told to expect direction (from the top) by tomorrow regarding the CAPUD tenancy. I apologize for the inconvenience in the lengthy delays..."</p> <p>This was the last response I received from either Mr. White or Mr. Hardisty. A few weeks after this last email from Mr. White to me, I realized that Aquilini had effectively finally declined the sublease by their lack of response.</p>

**2. What is the adverse impact on you? \*\***

The adverse impact suffered, as a result of Aquilini's, Mr. Hardisty's, CBRE's, and Mr. White's actions, which cumulatively resulted in the denial of CAPUD's application for a sublease, was firstly damage to the dignity, feelings, reputation, and self respect of the individuals involved with CAPUD, the current and former people who use drugs whom CAPUD represents nationally, and myself.

Secondly, CAPUD and myself were denied the opportunity to rent an office in an ideal location with proximity to the Downtown Eastside, an area many people who use drugs frequent. The denial of this office space meant that CAPUD and myself were materially disadvantaged in our efforts to advocate on behalf of people who use drugs for effective responses to the continuing public health emergency of the overdose crisis. Conversely, it also meant that the people who use drugs that CAPUD and I represent were materially disadvantaged by not obtaining a space in which to receive support and provide vital information about their lived experiences with drug use, that could inform CAPUD's and my advocacy to promote the interests of people who use drug users.

Another impact suffered is that the denial of the tenancy undercut CAPUD's and my efforts to combat stigma, prejudice, and stereotyping against people who use drugs. The denial of the tenancy, which amounted to differential treatment of CAPUD, people who use drugs, and myself, also actively contributed to the systemic stigma, prejudice, and stereotyping faced by people who use drugs. The systemic stigma, prejudice, and stereotyping has the adverse impact of blocking people who use drugs' access to effective harm reduction and medical treatment. These systemic problems also undermine the ability of people who use drugs to participate equally in society.

Personally, I suffered the adverse impact of my time being wasted on the inquiry and research into the office space, the negotiations, correspondence, and agreement review to secure the sublease, and the follow up inquiries into the initial denial of the sublease. Other individuals within CAPUD and the BCCDC expended further time on these tasks. CAPUD committed to the sublease by January 22, 2018, and then the status of that sublease was left uncertain for well over a month while Aquilini first denied the sublease, then agreed to review it, and ultimately failed to respond on the status of the review. During that inordinate period of uncertainty, CAPUD practically had to pause its search efforts for office space and was delayed in its aspirations of setting up an office space expediently in order to best advance its advocacy services. Both CAPUD's and my time was diverted from our efforts to advocate for people who use drugs during the ongoing overdose crisis. This diversion of time and resources resulted in CAPUD being unable, at that time, to offer their full slate of programming for people who use drugs and compromised its abilities, temporarily, to fulfill some of its obligations to funders.

The effects of the adverse impacts were compounded by the fact that CAPUD and I had, around the same time as the denial of the sublease application, participated in a focus group for the Vancouver Canucks for their advertising campaign to educate against stigma, prejudice, and stereotyping against people who use drugs. That the Canucks would seek to benefit from CAPUD's and my knowledge and participation and publicly promote themselves as sympathetic to the challenges faced by people who use drugs, while their affiliates simultaneously denied CAPUD the sublease, had a pronounced impact on the damage that was suffered to CAPUD's, people who use drugs' and my dignity, feelings, and self-respect. The failure of the Canucks Community Partnerships Division to recognize our collaboration or even substantively respond to our requests to speak on our behalf to Aquilini management, compounded this damage.

### **3. How was each ground of discrimination a factor in the adverse impact? --**



Physical disability was the primary ground of discrimination militating towards the adverse impacts. Drug use and addiction fall within the listed ground of physical disability under the Human Rights Code. It is apparent from the questions posed by Mr. White, purportedly on behalf of Aquilini, in his emails to me of January 22, 2018, that the presence of people who use drugs, was the basis on which CAPUD was denied the lease.

The expressed concerns about "active users", the implication that CAPUD and I would be unable to "ensure a professional and safe environment for all tenants and visitors to the building", that active users would be "strung out", be "agitated" and act inappropriately to "visitors/tenants of the building or make them feel unsafe/uncomfortable", or the optics to other potential tenants of allowing CAPUD to enter into the sublease, are all indicative of discriminatory attitudes towards people who use drugs.

Each of the adverse impacts described above resulted from some form of differential treatment targeted at CAPUD (including me personally) because we represent and are people who use drugs. That differential treatment, or the denial of the sublease where someone who does not use drugs would not be denied the sublease, has multiple effects in terms of creating material disadvantages for and enhancing stigma, prejudice, and stereotyping against the individuals forming CAPUD (including me) and the people who use drugs we advocate for.

These effects all contribute in various ways to creating harms, barriers to harm reduction, inequitable access of people who use drugs to equality in society at large based solely on physical disability, and many of the problems that contribute to the devastation of the ongoing overdose crisis.

**Respondent 2: Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)**

**1. What did the Respondent do?**

Date (YYYY MM DD) **	What Happened? **
	See description of "What happened" above for Respondent 1.

**2. What is the adverse impact on you?..**

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact?..**

See description above for grounds of discrimination for Respondent 1.

**Respondent 3: CBRE Limited, Real Estate Brokerage ("CBRE")**

**1. What did the Respondent do?**

Date (YYYY MM DD) **	What Happened? **
	See description of "What happened" above for Respondent 1.

**2. What is the adverse impact on you?..**

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact?\***

See description above for grounds of discrimination for Respondent 1.

**Respondent 4: Michael White, Realtor with CBRE**

**1. What did the Respondent do?**

Date (YYYY MM DD)**	What Happened? **
	See description of "What happened" above for Respondent 1.

**2. What is the adverse impact on you?\***

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact?\***

See description above for grounds of discrimination for Respondent 1.

**STEP 4: PART A – TIME LIMIT TO FILE COMPLAINT**

To file your complaint on time, you must file it within six months of each Respondent's conduct (acts or omissions). If only some of the conduct happened in the last six months, your complaint may be filed in time if all of that Respondent's conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether your complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

**1. Did all the conduct you say is discrimination happen in the last six months?**

Yes  No

**Respondent 1: Aquilini Investment Group (including at least three of its subsidiaries) ("Aquilini")**

**2. Is all the conduct related or similar and, if so, how?\***

No  Yes

EXPLAIN WHY RELATED OR SIMILAR
The conduct all relates to actions contributing to the ultimate decision by Aquilini to reject the sublease. The offensive questions in the due diligence review conveyed by Michael White purportedly on behalf of Aquilini, the preliminary decision to deny the sublease, the announcement of the review of that decision, and the eventual constructive denial of the sublease by failing to respond to me, are all part of the same series of events that ultimately led to the effective rejection of the sublease and its corresponding adverse impacts on the individuals involved with CAPUD, the people who use drugs that CAPUD represents, and myself.

**3. If there are gaps between the conduct, can you explain them?**

The gaps between the conduct reflect the approach taken by Aquilini in its initial decision-making process for the denial of the sublease, the review of the denial, and the ultimate rejection of CAPUD's application. After each stage of the process, additional correspondence and time for reflection led to the time gaps leading up to the ultimate rejection of the sublease.

**Respondent 2:** Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)

**2. Is all the conduct related or similar and, if so, how?--**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR	See description of related conduct above for Respondent 1.
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**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

**Respondent 3:** CBRE Limited, Real Estate Brokerage ("CBRE")

**2. Is all the conduct related or similar and, if so, how?--**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR	See description of related conduct above for Respondent 1.
--------------------------------	--

**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

**Respondent 4:** Michael White, Realtor with CBRE

**2. Is all the conduct related or similar and, if so, how?--**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR	See description of related conduct above for Respondent 1.
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**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

## **STEP 4: PART B – TRIBUNAL MAY ACCEPT LATE COMPLAINTS**

If **ANY** of the conduct you say is discrimination happened more than six months ago, part or all of your complaint **MAY** be filed late. Answer the questions in **STEP 4: PART B**, even if you believe that all of your complaint is filed on time because it is about similar or related events with at least one event in the last six months.

The Tribunal may accept a late complaint if it decides that accepting the late-filed complaint:

- is in the public interest; and
- no one would be substantially prejudiced (harmed) by the delay.

### **1. Why did you wait to file your complaint?\***

At the outset, I state that my view is that my complaint is not filed later than six months after the Respondents' discriminatory conduct. Given the series of events of the initial denial, the announcement of the review, and the ultimate failure to convey an effective response confirming the rejection of the application for the sublease, the discriminatory conduct effectively crystallized after February 27, 2018. The time period between this discriminatory conduct and my filing of this complaint is less than six months.

After Mr. White's last email stating that an answer about the status of the sublease application was coming around February 27, 2018, I waited a few weeks before concluding that Aquilini's, Mr. Hardisty's, CBRE's, and Mr. White's lack of responses was effectively a rejection of CAPUD's sublease application.

I then devoted my energy towards securing an appropriate tenancy with another landlord, so that CAPUD and I would have a physical space to better enable us to advocate on behalf of people who use drugs and continue providing our full services to people who use drugs. Given the current state of the overdose crisis, CAPUD's and my energy has been substantially devoted to our advocacy efforts to promote the interests of people who use drugs and towards obtaining solutions to the crisis.

Only in late July, did CAPUD and I learn of the potential of a human rights complaint regarding the discriminatory conduct in this matter. That knowledge was obtained when this issue was raised in the context of an ongoing policy discussion about other potential legal solutions to alleviate the overdose crisis. CAPUD and I then endeavored over the next month to receive legal advice about this matter. After legal advice was received, steps were taken to expediently file this complaint.

### **2. Why should the Tribunal accept your complaint?\***

First and foremost, as described above, this complaint should be accepted as the discriminatory conduct crystallized after February 27, 2018, which means this complaint was filed within six months of that conduct.

If the Tribunal is not convinced that this complaint was brought within six months, the Tribunal should nevertheless accept my complaint as there is a strong public interest in hearing this matter and there is not substantial prejudice to any Respondent nor any other party in hearing the complaint.

The public interest in hearing this complaint is strong given the severity and suffering of the ongoing overdose crisis and the need to deter discrimination against people who use drugs and for public institutions, such as the Tribunal, to publicly denounce this discrimination to alleviate the systemic stigma, prejudice, and stereotyping against people who use drugs.

### **3. Why would the delay in filing not cause substantial prejudice to any other person?\***

The delay in filing does not cause substantial prejudice to others, as any delay, should the Tribunal view the discriminatory conduct as crystallizing before February 27, 2018, is of approximately one month and is relatively small. CAPUD and I are not seeking specific performance of the sublease, so there is no risk of prejudice to any subsequent tenants who may have taken over the office space.

I am not aware of the death of any possible material witnesses. It is likely that most of the relevant documentary evidence is in the form of emails which should still be retrievable at this time.

Overall, any prejudice of a delay in filing is negligible and prejudice should not militate in favour of rejection of this complaint when balanced against the pressing public interest in preventing discrimination against people who use drugs, given the present context of the overdose crisis in Canada.

## STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer your complaint (put your complaint on hold) until another proceeding capable of dealing with your human rights complaint, such as a grievance, has been completed. If your complaint is deferred, the Tribunal will take no further steps until the deferral ends.

Is there another proceeding?\*

Yes  No

## STEP 6: REMEDIES

1. List the type of remedies you want:\*

- 1) A declaration that the Code has been violated;
- 2) An order that Aquilini, Mr. Hardisty, CBRE, and Mr. White refrain from discriminating against me in the future;
- 3) Compensatory damages payable to me for the expenses incurred and wages diverted by my efforts to secure the sublease;
- 4) Damages payable to me to compensate for injury to my dignity, feelings, and self respect;
- 5) Orders that Aquilini and CBRE develop educational activities for their employees to improve their understanding of disability, the overdose crisis, and the plight of people who use drugs and their obligations under the Human Rights Code; and
- 6) Orders that Mr. Hardisty and Mr. White participate in those employer developed educational activities, if still employed by Aquilini or CBRE, or attend alternative educational activities on these subjects if employed elsewhere.

2. List any other person or organization affected by these remedies:

CAPUD, and all other current and former people who use drugs in Canada may benefit from these remedies.

\* I note that I have filed a concurrent claim using Form 1.3 - Complaint For A Group or Class on behalf of CAPUD and all current and former people who use drugs in Canada - the group whose interests CAPUD and I advocate on behalf of. The majority of the content in this complaint is repeated there. It is CAPUD's and my desire, that should the Tribunal accept this Form 1.1 - Individual Complaint and the Form 1.3 Complaint for a Group or Class that the two complaints be joined to promote efficiencies for all parties and for the Tribunal.

## STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a "settlement meeting". This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

Do you want to participate in a settlement meeting?\*

Yes  No



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## STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of your complaint form and your documents
- send your complaint form to the Tribunal

### Check the following for:



I confirm that the information in this complaint form is true and accurate to the best of my knowledge and belief. \*\*

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## WHAT HAPPENS NEXT?

After the Tribunal has reviewed your complaint, it will tell you one of the following:

- your complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
  - your complaint form is incomplete and the Tribunal will ask you for further information by a certain date
  - your complaint is deferred pending the outcome of other proceedings
  - your complaint cannot be accepted for filing because:
    - your complaint is not covered by the BC *Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
    - your complaint does not set out enough information to support a complaint of discrimination under the BC *Human Rights Code*
    - your complaint was filed late and the Tribunal has decided not to accept it.
- 

## PROTECTION FROM RETALIATION

After a complaint is filed a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint was filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the Code also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If you or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms.

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## HELP FILING YOUR COMPLAINT

For assistance with filing your complaint contact:

**BC Human Rights Clinic**  
300 - 1140 W Pender Street  
Vancouver BC V6E 4G1  
Tel: 604-622-1100  
Fax: 604-685-7611  
Toll Free: 1-855-685-6222  
www.bchrc.net

**The Law Centre – University of Victoria Faculty of Law**  
225 - 850 Burdett Avenue  
Victoria BC V8W 0C7  
Tel: 250-385-1221  
Fax: 250-385-1226  
www.thelawcentre.ca

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## PRIVACY NOTICE

The Tribunal collects personal information to process complaints filed under the *Human Rights Code* and to conduct surveys to evaluate and improve its services under s. 59.1 of the *Administrative Tribunals Act*.

The personal information in this form may be disclosed to members of the public. This is because the Tribunal's process is public:

- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.





**BC Human Rights Tribunal**

1170 - 605 Robson Street

Vancouver BC V6B 5J3

Phone: 604-775-2000

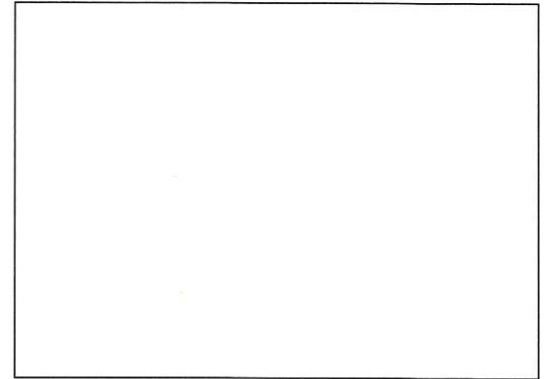
Fax: 604-775-2020

Toll Free: 1-888-440-8844

TTY: 604-775-2021

**GENERAL INSTRUCTIONS**

- For detailed instructions select the **Help** buttons as you go or click on **All Instructions** now
- See the Tribunal's website for further information – [www.bchrt.bc.ca](http://www.bchrt.bc.ca)
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- Fill in the areas for Part I and Part II
- **Email** us your form by attaching a saved copy and sending it to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- OR click on **Print** and **fax**, **mail** or **hand deliver** a copy of your form to us
- Keep a copy of this Complaint Form and all the documents



Tribunal Stamp

**For assistance with filing your complaint contact****BC Human Rights Clinic**

Tel: 604-622-1100

Toll Free: 1-855-685-6222

[www.bchrc.net](http://www.bchrc.net)**The Law Centre**

Tel: 250-385-1221

[www.thelawcentre.ca](http://www.thelawcentre.ca)

# YOUR INFORMATION

FIRST NAME: ** Jordan		LAST NAME: ** Westfall	
NAME OF LAWYER OR OTHER PERSON WHO REPRESENTS YOU IN THIS COMPLAINT (IF APPLICABLE):			
MAILING ADDRESS: ** [removed for privacy]			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** REMOVED
<p><b>Purpose of collecting contact information:</b> The Tribunal uses your contact information to process the complaint and conduct surveys to evaluate and improve its services. The Tribunal will give your mailing address to the other parties for the exchange of information and other documents. Your additional contact information will only be given to the other parties if you agree.</p> <p><input checked="" type="checkbox"/> Check here to tell the Tribunal not to disclose the additional contact information below to the Respondent.</p>			
TELEPHONE: ** [removed]	FACSIMILE:	CELLULAR:	
EMAIL: [removed]			



## PART I: REPRESENTATION OF THE GROUP OR CLASS

NOTE: If the remedy you seek for the group or class is the same remedy you would seek in your own complaint, file only an individual complaint. For example, if the only remedy you want is for an organization to change its policy, you would file only your own individual complaint.

### Describe the group or the class of persons:--

I represent the Canadian Association of People Who Use Drugs ("CAPUD"), a registered British Columbia non-profit society representing the interests of individuals with lived experience using drugs (both current and former drug users and drug addicts). CAPUD is composed of members from across Canada and advocates nationally. I am the President of CAPUD and authorized to bring legal and administrative proceedings on CAPUD's behalf.

In addition to representing CAPUD as a group in this complaint, I would like to file a complaint on behalf of all current and former people who use drugs (collectively "People Who Use Drugs"), the class of individuals that CAPUD advocates on behalf of and who benefit from the supportive services CAPUD provides.

### 1. Are you a member of the group or class?--

Yes  No

### 2. Why are you filing the complaint?--

I am authorized, as Executive Director of CAPUD, to file a complaint on CAPUD's behalf. As a former user of opioid drugs and through my role with CAPUD I think I am well-placed to advocate on behalf of the class of people CAPUD represents, People Who Use Drugs.

### 3. Do your interests in the complaint differ from the members?--

Yes  No

### 4. If yes, explain.--

There are some differences between my interests and those of People Who Use Drugs as a class. The discriminatory conduct named later in this complaint had some particular adverse impacts directly on me, that other members of the class of People Who Use Drugs did not suffer. Those direct adverse impacts related to the time and resources I devoted towards securing a tenancy for CAPUD that were diverted from my other work and advocacy efforts.

In a concurrent Form 1.1- Individual Complaint ("Individual Complaint") that I have filed, I have sought some remedies that only relate to compensation for my own personal time and resources expended.

The remedies that I seek on behalf of CAPUD, as a group, and the class of People Who Use Drugs, in this Form 1.3 - Complaint for a Group or Class ("Group and Class Complaint"), are therefore not identical to the remedies sought in my Individual Complaint.

### 1. Describe your communications with the group or class of persons to date:--

I have discussed and am in constant communication about the filing of the Group and Class Complaint, on CAPUD's behalf, with other members of CAPUD's Board of Directors. CAPUD, through its Facebook page, has raised the incidents forming the subject of my Individual Complaint and this Group and Class Complaint, the denial of a tenancy (a sublease) to CAPUD on discriminatory grounds. CAPUD has not publicly announced its decision to file this complaint on social media. I have further discussed the incidents in this Group and Class Complaint and CAPUD's decision to file a complaint, with various People Who Use Drugs who are not directly within the CAPUD organization. CAPUD's Board of Directors have also informed me that they have in the past and will in the future continue to disseminate awareness about the Individual Complaint and Group and Class Complaint to People Who Use Drugs and the wider Canadian public.

**2. Do you have any reason to believe that the group or class or some of its members may not want you to file this complaint on their behalf?\***

Yes

No

**4. Describe your plan for communicating with the group or class in the future:\***

It is my intention to ensure that CAPUD posts notices on our website and social media, of my Individual Complaint, CAPUD's complaint as a group under this Group and Class Complaint, and the broader class-based complaint for People Who Use Drugs under this Group and Class Complaint. I further intend to notify various media sources and respond to questions brought forward by the media about these complaints.

## PART II: COMPLAINT

### STEP 1: NAME THE RESPONDENT(S)

Name each individual person, business or organization you believe is responsible for the discrimination.

An individual Respondent might be a co-worker, boss, building manager, landlord, restaurant server, employee at a recreation facility, health care provider or government official.

A business or organizational Respondent might be the company the group members worked for, a newspaper, a school district, a trade union, a society or a strata corporation.

#### State The Relationship of the Group or Class With Each Respondent

#### Respondent 1:

NAME: ** Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** CAPUD negotiated with prospective office landlord, Aquilini, for a space for to represent Drug Users			
MAILING ADDRESS: ** Aquilini Centre West, 89 West Georgia Street			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6B 0N8
TELEPHONE: ** 604-899-5398	FACSIMILE: 604-899-5399	CELLULAR:	
MAILING ADDRESS: ** info@aquilini.com			

#### Respondent 2:

NAME: ** Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** Mr. Hardisty was the Aquilini Group employee handling the prospective commercial tenancy			
MAILING ADDRESS: ** Aquilini Centre, Gate 16 in Rogers Arena, 800 Griffiths Way			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6B 6G1
TELEPHONE: ** 604-899-5329	FACSIMILE: 	CELLULAR: 778-686-4154	
MAILING ADDRESS: ** drew.hardisty@aquilini.com			

#### Respondent 3:

NAME: ** CBRE Limited, Real Estate Brokerage ("CBRE")			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** CBRE Limited was the commercial real estate firm CAPUD dealt with for the prospective commercial tenancy			
MAILING ADDRESS: ** 1021 West Hastings Street, Suite 2500			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6E 0C3
TELEPHONE: ** 604-662-3000	FACSIMILE: 604-684-9368	CELLULAR:	
MAILING ADDRESS: ** Mark.Renzoni@cbre.com (email of the President & CEO)			



## Respondent 4:

NAME: ** Michael White, Realtor with CBRE			
RELATIONSHIP TO THE GROUP OR CLASS YOU REPRESENT: ** Mr. White was the realtor handling the prospective commercial tenancy for Aquilini			
MAILING ADDRESS: ** 1021 West Hastings Street, Suite 2500			
CITY: ** Vancouver		PROVINCE: ** BC	POSTAL CODE: ** V6E 0C3
TELEPHONE: ** 604-662-5120	FACSIMILE: 604-684-9368	CELLULAR: 604-818-7830	
MAILING ADDRESS: ** michael.rm.white@cbre.com			

## STEP 2: AREA(S) & GROUND(S) OF DISCRIMINATION

List the area(s) and ground(s) of discrimination that apply to this complaint:

A complaint must show that the Respondent's conduct took place in an area of daily life protected under the BC *Human Rights Code*. These are called "**areas of discrimination**".

It must also show that the person has a personal characteristic(s) protected under the *Code*. These are called "**grounds of discrimination**". These protected personal characteristics may be:

- actual (for example, a person's ancestry or age), or
- perceived (for example, someone thinks that a person has or may develop a disability in the future, or makes homophobic comments regardless of the person's sexual orientation).

**Not all grounds of discrimination apply to all areas of discrimination.**

### Respondent 1: Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")

<b>Area of Discrimination</b>			
<input type="radio"/> Accommodation, service or facility	<input type="radio"/> Employment	<input type="radio"/> Employment advertisement	<input type="radio"/> Publication
<input type="radio"/> Purchase of property	<input checked="" type="radio"/> Tenancy	<input type="radio"/> Unions and associations	<input type="radio"/> Wages
<b>Grounds of Discrimination</b>			
<input type="checkbox"/> Age	<input type="checkbox"/> Ancestry	<input type="checkbox"/> Colour	<input type="checkbox"/> Family Status
<input type="checkbox"/> Gender Identity or Expression	<input type="checkbox"/> Marital Status	<input type="checkbox"/> Mental Disability	<input checked="" type="checkbox"/> Physical Disability
<input type="checkbox"/> Place of Origin	<input type="checkbox"/> Race	<input type="checkbox"/> Religion	<input type="checkbox"/> Sex
<input type="checkbox"/> Sexual Orientation	<input type="checkbox"/> Source of Income		
"Physical Disability" includes a physical condition that affects or is seen as affecting a person's abilities.			
Details: <u>Addiction and Drug Use</u>			

### Respondent 2: Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)

✓ The Area(s) & Grounds are the same as Respondent 1

### Respondent 3: CBRE Limited, Real Estate Brokerage ("CBRE")

✓ The Area(s) & Grounds are the same as Respondent 1

### Respondent 4: Michael White, Realtor with CBRE

✓ The Area(s) & Grounds are the same as Respondent 1

---

## STEP 3: RESPONDENTS' CONDUCT

Answer these questions to show that the Respondent's conduct could be discrimination under the *Human Rights Code*

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**Respondent 1:** Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")

### 1. What did the Respondent do?

Date (YYYY MM DD) **	What Happened? **
	See the description of "What happened" for Respondent 1 in my Individual Complaint concurrently filed. I attempted to input a description of the events in full on this form, however, a technical glitch in the form prevented me from stating the full text of the events.



## 2. What is the adverse impact on the group or class you represent?\*

The adverse impact suffered, as a result of Aquilini's, Mr. Hardisty's, CBRE's, and Mr. White's actions, which cumulatively resulted in the denial of CAPUD's application for a sublease, was firstly damage to the dignity, feelings, reputation, and self respect of the individuals involved with CAPUD, the current and former People who Use Drugs whom CAPUD represents nationally, and myself.

Secondly, CAPUD and myself were denied the opportunity to rent an office in an ideal location with proximity to the Downtown Eastside, an area many People Who Use Drugs frequent. The denial of this office space meant that CAPUD and myself were materially disadvantaged in our efforts to advocate on behalf of People Who Use Drugs for effective responses to the continuing public health emergency of the overdose crisis. Conversely, it also meant that the People Who Use Drugs that CAPUD and I represent were materially disadvantaged by not obtaining a space in which to receive support and provide vital information about their lived experiences with drug use, that could inform CAPUD's and my advocacy to promote the interests of People Who Use Drugs.

Another impact suffered is that the denial of the tenancy undercut CAPUD's and my efforts to combat stigma, prejudice, and stereotyping against People Who Use Drugs. The denial of the tenancy, which amounted to differential treatment of CAPUD, People Who Use Drugs, and myself, also actively contributed to the systemic stigma, prejudice, and stereotyping faced by People Who Use Drugs. The systemic stigma, prejudice, and stereotyping has the adverse impact of blocking People Who Use Drugs' access to effective harm reduction and medical treatment. These systemic problems also undermine the ability of People Who Use Drugs to participate equally in society.

Individuals within CAPUD and the BCCDC expended time on the inquiry and research into the office space, the negotiations, correspondence, and agreement review to secure the sublease, and the follow up inquiries into the initial denial of the sublease. CAPUD committed to the sublease by January 22, 2018, and then the status of that sublease was left uncertain for well over a month while Aquilini first denied the sublease, then agreed to review it, and ultimately failed to respond on the status of the review. During that inordinate period of uncertainty, CAPUD practically had to pause its search efforts for office space and was delayed in its aspirations of setting up an office space expediently in order to best advance its advocacy services. CAPUD's time was diverted from our efforts to advocate for People Who Use Drugs during the ongoing overdose crisis. This diversion of time and resources resulted in CAPUD being unable, at that time, to offer their full slate of programming for People Who Use Drugs and compromised its abilities, temporarily, to fulfill some of its obligations to funders.

The effects of the adverse impacts were compounded by the fact that CAPUD and I had, around the same time as the denial of the sublease application, participated in a focus group for the Vancouver Canucks for their advertising campaign to educate against stigma, prejudice, and stereotyping against People Who Use Drugs. That the Canucks would seek to benefit from CAPUD's and my knowledge and participation and publicly promote themselves as sympathetic to the challenges faced by People Who Use Drugs, while their affiliates simultaneously denied CAPUD the sublease, had a pronounced impact on the damage that was suffered to CAPUD's and People Who Use Drugs' dignity, feelings, and self-respect. The failure of the Canucks Community Partnerships Division to recognize our collaboration or even substantively respond to our requests to speak on our behalf to Aquilini management, compounded this damage.

**3. How was each ground of discrimination a factor in the adverse impact? ..**

Physical disability was the primary ground of discrimination militating towards the adverse impacts. Drug use and addiction fall within the listed ground of physical disability under the Human Rights Code. It is apparent from the questions posed by Mr. White, purportedly on behalf of Aquilini, in his emails to me of January 22, 2018, that the presence of People Who Use Drugs, was the basis on which CAPUD was denied the lease.

The expressed concerns about "active users", the implication that CAPUD and I would be unable to "ensure a professional and safe environment for all tenants and visitors to the building", that active users would be "strung out", be "agitated" and act inappropriately to "visitors/tenants of the building or make them feel unsafe/uncomfortable", or the optics to other potential tenants of allowing CAPUD to enter into the sublease, are all indicative of discriminatory attitudes towards People Who Use Drugs.

Each of the adverse impacts described above resulted from some form of differential treatment targeted at CAPUD (including me personally) because we represent and are People Who Use Drugs. That differential treatment, or the denial of the sublease where someone who does not use drugs would not be denied the sublease, has multiple effects in terms of creating material disadvantages for and enhancing stigma, prejudice, and stereotyping against the individuals forming CAPUD (including me) and the People Who Use Drugs we advocate for.

These effects all contribute in various ways to creating harms, barriers to harm reduction, inequitable access of People Who Use Drugs to equality in society at large based solely on physical disability, and many of the problems that contribute to the devastation of the ongoing overdose crisis.

**Respondent 2: Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)**

**1. What did the Respondent do?**

Date (YYYY MM DD) **	What Happened? **
	See the description of "What happened" for Respondent 1 in my Individual Complaint concurrently filed.

**2. What is the adverse impact on the group or class you represent? ..**

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact? ..**

See description above for grounds of discrimination for Respondent 1.

**Respondent 3: CBRE Limited, Real Estate Brokerage ("CBRE")**

**1. What did the Respondent do?**

Date (YYYY MM DD) **	What Happened? **
	See the description of "What happened" for Respondent 1 in my Individual Complaint concurrently filed.

**2. What is the adverse impact on the group or class you represent? --**

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact? --**

See description above for grounds of discrimination for Respondent 1.

**Respondent 4: Michael White, Realtor with CBRE**

**1. What did the Respondent do?**

Date (YYYY MM DD)**	What Happened? **
	See the description of "What happened" for Respondent 1 in my Individual Complaint concurrently filed.

**2. What is the adverse impact on the group or class you represent? --**

See description of adverse impacts above for Respondent 1.

**3. How was each ground of discrimination a factor in the adverse impact? --**

See description above for grounds of discrimination for Respondent 1.

**STEP 4: PART A – TIME LIMIT TO FILE COMPLAINT**

To file the complaint on time, you must file it within six months of each Respondent's conduct (acts or omissions). If only some of the conduct happened in the last six months the complaint may be filed in time if all of that Respondent's conduct is related or similar and close enough in time.

Answer the questions in **STEP 4: Part A** to show whether the complaint is filed in time. If some or all of the complaint may be filed late, you will also complete **STEP 4: Part B**.

**1. Did all the conduct you say is discrimination happen in the last six months?**

Yes  No

**Respondent 1: Aquilini Investment Group (including at least three of its subsidiaries)("Aquilini")**

**2. Is all the conduct related or similar and, if so, how? --**

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

The conduct all relates to actions contributing to the ultimate decision by Aquilini to reject the sublease. The offensive questions in the due diligence review conveyed by Michael White purportedly on behalf of Aquilini, the preliminary decision to deny the sublease, the announcement of the review of that decision, and the eventual constructive denial of the sublease by failing to respond to me, are all part of the same series of events that ultimately led to the effective rejection of the sublease and its corresponding adverse impacts on the individuals involved with CAPUD, the People Who Use Drugs that CAPUD represents, and myself.

**3. If there are gaps between the conduct, can you explain them?**

The gaps between the conduct reflect the approach taken by Aquilini in its initial decision-making process for the denial of the sublease, the review of the denial, and the ultimate rejection of CAPUD's application. After each stage of the process, additional correspondence and time for reflection led to the time gaps leading up to the ultimate rejection of the sublease.

**Respondent 2: Drew Hardisty (Commercial Leasing Manager of Aquilini Properties)**

**2. Is all the conduct related or similar and, if so, how?\***

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

See description of related conduct above for Respondent 1.

**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

**Respondent 3: CBRE Limited, Real Estate Brokerage ("CBRE")**

**2. Is all the conduct related or similar and, if so, how?\***

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

See description of related conduct above for Respondent 1.

**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

**Respondent 4: Michael White, Realtor with CBRE**

**2. Is all the conduct related or similar and, if so, how?\***

No  Yes

EXPLAIN WHY RELATED OR SIMILAR

See description of related conduct above for Respondent 1.

**3. If there are gaps between the conduct, can you explain them?**

See description of time gaps above for Respondent 1.

## **STEP 4: PART B – TRIBUNAL MAY ACCEPT LATE COMPLAINTS**

If **ANY** of the conduct you say is discrimination happened more than six months ago, part or all of the complaint **MAY** be filed late.

Answer the questions in **STEP 4: PART B**, even if you believe that all of the complaint is filed on time because it is about similar or related events with at least one event in the last six months.

The Tribunal may accept a late complaint if it decides that accepting the late-filed complaint:

- is in the public interest; and
- no one would be substantially prejudiced (harmed) by the delay.

### **1. Why did you or the group or class you represent wait to file the complaint? \***

At the outset, I state that my view is that this Group and Class Complaint is not filed later than six months after the Respondents' discriminatory conduct. Given the series of events of the initial denial, the announcement of the review, and the ultimate failure to convey an effective response confirming the rejection of the application for the sublease, the discriminatory conduct effectively crystallized after February 27, 2018. The time period between this discriminatory conduct and my filing of this complaint is less than six months.

After Mr. White's last email stating that an answer about the status of the sublease application was coming around February 27, 2018, I waited a few weeks before concluding that Aquilini's, Mr. Hardisty's, CBRE's, and Mr. White's lack of responses was effectively a rejection of CAPUD's sublease application.

I then devoted my energy towards securing an appropriate tenancy with another landlord, so that CAPUD and I would have a physical space to better enable us to advocate on behalf of People Who Use Drugs and continue providing our full services to People Who Use Drugs. Given the current state of the overdose crisis, CAPUD's and my energy has been substantially devoted to our advocacy efforts to promote the interests of People Who Use Drugs and towards obtaining solutions to the crisis.

Only in late July, did CAPUD and I learn of the potential of a human rights complaint regarding the discriminatory conduct in this matter. That knowledge was obtained when this issue was raised in the context of an ongoing policy discussion about other potential legal solutions to alleviate the overdose crisis. CAPUD and I then endeavored over the next month to receive legal advice about this matter. After legal advice was received, steps were taken to expediently file this complaint.

### **2. Why should the Tribunal accept the complaint? \***

First and foremost, as described above, this complaint should be accepted as the discriminatory conduct crystallized after February 27, 2018, which means this Group and Class Complaint was filed within six months of that conduct.

If the Tribunal is not convinced that this Group and Class Complaint was brought within six months, the Tribunal should nevertheless accept this Group and Class Complaint as there is a strong public interest in hearing this matter and there is not substantial prejudice to any Respondent nor any other party in hearing the complaint.

The public interest in hearing this complaint is strong given the severity and suffering of the ongoing overdose crisis and the need to deter discrimination against People Who Use Drugs and for public institutions, such as the Tribunal, to publicly denounce this discrimination to alleviate the systemic stigma, prejudice, and stereotyping against People Who Use Drugs.



### 3. Why would the delay in filing not cause substantial prejudice to any other person? \*

The delay in filing does not cause substantial prejudice to others, as any delay, should the Tribunal view the discriminatory conduct as crystallizing before February 27, 2018, is of approximately one month and is relatively small. CAPUD and I are not seeking specific performance of the sublease, so there is no risk of prejudice to any subsequent tenants who may have taken over the office space.

I am not aware of the death of any possible material witnesses. It is likely that most of the relevant documentary evidence is in the form of emails which should still be retrievable at this time.

Overall, any prejudice of a delay in filing is negligible and prejudice should not militate in favour of rejection of this Group and Class Complaint when balanced against the pressing public interest in preventing discrimination against People Who Use Drugs, given the present context of the overdose crisis in Canada.

## STEP 5: OTHER RELATED PROCEEDINGS

The Tribunal may defer the complaint (put the complaint on hold) until another proceeding capable of dealing with the human rights complaint, such as a grievance, has been completed. If the complaint is deferred, the Tribunal will take no further steps until the deferral ends.

Is there another proceeding? \*

Yes  No

## STEP 6: REMEDIES

### 1. List the type of remedies you want for the group or class: \*

- 1) A declaration that the Code has been violated;
- 2) An order that Aquilini, Mr. Hardisty, CBRE, and Mr. White refrain from discriminating against CAPUD and People Who Use Drugs in the future;
- 3) Compensatory damages payable to other members of CAPUD for the expenses incurred and wages diverted by their efforts to secure the sublease;
- 4) Damages payable to CAPUD and People Who Use Drugs to compensate for injury to their dignity, feelings, and self respect;
- 5) Orders that Aquilini and CBRE develop educational activities for their employees to improve their understanding of disability, the overdose crisis, and the plight of People Who Use Drugs and their obligations under the Human Rights Code; and
- 6) Orders that Mr. Hardisty and Mr. White participate in those employer developed educational activities, if still employed by Aquilini or CBRE, or attend alternative educational activities on these subjects if employed elsewhere.

### 2. List any other person or organization affected by these remedies:

\* I note that I have filed a concurrent claim using Form 1.1 - Individual Complaint on behalf of myself. The majority of the content in this complaint is repeated there. It is CAPUD's and my desire, and likely in the best interests of the People Who Use Drugs class, that should the Tribunal accept this Group and Class Complaint and the Individual Complaint that the two complaints be joined to promote efficiencies for all parties and for the Tribunal.

## STEP 7: SETTLEMENT MEETING

The Tribunal can provide a mediator to resolve the complaint informally and voluntarily. This is called a "settlement meeting". This is a free service. What is said during the settlement meeting is confidential and cannot be used against either party later.

Do you want to participate in a settlement meeting? \*

Yes  No

---

## STEP 8: COMPLETE THE COMPLAINT FORM

After you have filled out the complaint form:

- check the box to confirm that the information is true and accurate
- keep a copy of this complaint form and the documents
- send the complaint form to the Tribunal.

### Check the following for:

I confirm that the information in this complaint form is true and accurate to the best of my knowledge and belief.\*\*

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## WHAT HAPPENS NEXT?

After the Tribunal has reviewed the complaint, it will tell you one of the following:

- the complaint form is complete, the Tribunal will accept it for filing, and a copy will be sent to the Respondent(s)
  - the complaint form is incomplete and the Tribunal will ask you for further information by a certain date
  - the complaint is deferred pending the outcome of other proceedings
  - the complaint cannot be accepted for filing because:
    - the complaint is not covered by the BC *Human Rights Code* (it may be covered by the *Canadian Human Rights Act*)
    - the complaint does not set out enough information to support a complaint of discrimination under the BC *Human Rights Code*
    - the complaint was filed late and the Tribunal has decided not to accept it.
- 

## PROTECTION FROM RETALIATION

After a complaint is filed a complainant, anyone named in a complaint, a witness or anyone who assists in a complaint is protected from retaliation for their involvement in the complaint. You must show:

- a complaint was filed with the Tribunal;
- the person who retaliated knew about the complaint; and
- it is reasonable to conclude that the person intended to retaliate against someone because of their involvement in the complaint.

As of May 14, 2015, the Code also protects you from retaliation because someone thought you might make a complaint, be named in a complaint, or give evidence or assist in a complaint.

If the person you represent or someone else has been retaliated against, complete a Retaliation Complaint Form available on our website under Forms. File it with Part I of this form (Form 1.2).

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## HELP FILING YOUR COMPLAINT

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**BC Human Rights Clinic**  
300 - 1140 W Pender Street  
Vancouver BC V6E 4G1  
Tel: 604-622-1100  
Fax: 604-685-7611  
Toll Free: 1-855-685-6222  
www.bchrc.net

**The Law Centre – University of Victoria Faculty of Law**  
225 - 850 Burdett Avenue  
Victoria BC V8W 0C7  
Tel: 250-385-1221  
Fax: 250-385-1226  
www.thelawcentre.ca

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- The Tribunal publishes most decisions on its website
- The Tribunal publishes a hearing schedule (list of upcoming hearings) with the parties' names and the area and ground of a complaint
- After a complaint is on the hearing schedule, the public has access to information, including the complaint and response forms (except contact information)
- Hearings are open to the public.

You can ask the Tribunal to limit the information it makes public. However, the Tribunal will only do so if it decides that your privacy interests outweigh the public interest in access to the Tribunal's proceedings.

For more information, contact the Tribunal Registrar at the address or phone number at the top of this form.

**BC Human Rights Tribunal**1170 - 605 Robson Street  
Vancouver BC V6B 5J3

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Tribunal Stamp

**GENERAL INSTRUCTIONS**

- See the Tribunal's website for further information – [www.bchrt.bc.ca](http://www.bchrt.bc.ca)
- Your information will NOT be automatically saved by the Tribunal
- Click on **Save** at any time to save your form to your computer
- **Email** us your form by attaching a saved copy and sending it to [BCHumanRightsTribunal@gov.bc.ca](mailto:BCHumanRightsTribunal@gov.bc.ca)
- OR click on **Print** and **fax, mail** or **hand deliver** a copy of your form to us
- Keep a copy of your Amendment Form and all of your documents

**INFORMATION**

NAME OF COMPLAINT (FOR EXAMPLE, SMITH v. ACME INC.): \*\*

Jordan Westfall obo of all current and former people who use drugs et al v. Aquilini Investment Group and Drew Hardisty and CBRE Limited

TRIBUNAL CASE NUMBER: \*\*

18310

NAME OF PERSON COMPLETING THIS FORM: \*\*

Jordan Westfall

**I am making the following changes to my** Complaint  **Response**  **form:**

The description of the group or class of persons in the initial Form 1.3 – Complaint for Group or Class reads:

"I represent the Canadian Association of People Who Use Drugs ("CAPUD"), a registered British Columbia non-profit society representing the interests of individuals with lived experience using drugs (both current and former drug users and drug addicts). CAPUD is composed of members from across Canada and advocates nationally. I am the President of CAPUD and authorized to bring legal and administrative proceedings on CAPUD's behalf.

In addition to representing CAPUD as a group in this complaint, I would like to file a complaint on behalf of all current and former people who use drugs (collectively "People Who Use Drugs"), the class of individuals that CAPUD advocates on behalf of and who benefit from the supportive services CAPUD provides."

My proposed amended description of the group or class reads:

"I represent the Canadian Association of People Who Use Drugs ("CAPUD"), a registered British Columbia non-profit society representing the interests of individuals with lived experience using drugs (both current and former drug users and people with drug addictions). CAPUD is composed of members from across Canada and advocates nationally. I am the President of CAPUD and authorized to bring legal and administrative proceedings on CAPUD's behalf.

CAPUD would like to file a complaint for the violation of its personal rights, as a non-profit society.

I would also like to file a complaint on behalf of CAPUD as representative of the following classes of current and former people who use drugs:

- i) The CAPUD executive members, employees, members, and volunteers, who are themselves current and former people who use drugs, at the time of the discrimination; and
- ii) The current and former people who used drugs and were resident in British Columbia at the time of the discrimination, being the class of persons within British Columbia to whom CAPUD offers its support services and on behalf of whom CAPUD advocates; (collectively "People Who Use Drugs").

The People Who Use Drugs class represents the classes the class of individuals that both make up CAPUD and also the individuals that CAPUD advocates on behalf of and who benefit from the supportive services CAPUD provides. Typically, the individuals in both categories are individuals who have frequently and habitually used drugs and who have suffered negative consequences as a result of that usage of drugs."

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## COMPLETE THE AMENDMENT FORM

After you have filled out the amendment form:

- add the total number of pages you are attaching to the amendment form
- check the box to confirm that the information is true and accurate
- keep a copy of your amendment form and your documents
- send your amendment form to the Tribunal

I have attached a total of   0   extra page(s) to this form.



I confirm that the information in this amendment form is true and accurate to the best of my knowledge and belief.\*\*