



## BUSINESS LICENCE HEARING MINUTES

OCTOBER 4, 2016

A Business Licence Hearing was held on Tuesday, October 4, 2016, at 6:02 pm, in the Council Chamber, Third Floor, City Hall, to consider the recommendation by the Deputy Chief Licence Inspector to refuse to issue a Business Licence to Ngoc Hoa "Eva" Lam, for the business premises located at 325 East Broadway, Vancouver, BC.

PRESENT: Councillor Adriane Carr, Chair  
Councillor Melissa De Genova  
Councillor Raymond Louie

CITY CLERK'S OFFICE: Lori Isfeld, Meeting Coordinator

1. **Ngoc Hoa "Eva" Lam**  
**325 East Broadway**

The Business Licence Hearing Panel had before it for consideration an Evidence Brief, prepared by the City of Vancouver's Legal Department, which contained the following material (*on file in the City Clerk's Office*) and the evidence of witnesses:

Tab

1 Notice of Hearing

- Dated September 15, 2016, sent to William Jessop, counsel for Ngoc Hoa Lam, Pho Chau Vietnamese Restaurant Ltd.

2 Licenses & Inspections Department

A. Business Licences

- 2015 Business Licence Application #15-320067 submitted by Ngoc Hoa Lam with related screen shots from AMANDA (Business Licence database)
- 2015 Business Licence #15-146225 issued to Pho Linh Vietnamese Restaurant, operator Mr. Quen Trieu, with related screen shots from AMANDA (Business Licence database)
- BC Registry BC Company Summary for Pho Chau Vietnamese Restaurant Ltd
- BC Registry Sole Proprietorship Summary for Pho Linh Vietnamese Restaurant
- Copy of BC Driver's Licence for Ngoc Hoa Lam

B. Correspondence

- Letter of Receipt of Appeal sent to Ngoc Hoa Lam and William Jessop, dated May 5, 2016

- Letter of Appeal from Ngoc Hoa Lam received by Sarah Hicks (Deputy Chief Licence Inspector), dated May 2, 2016
- Letter of Suspension for 325 East Broadway (Pho Chau Vietnamese Restaurant Ltd), sent to Ngoc Hoa Lam dated April 28, 2016
- Business Licence Practice Meeting notes (partially handwritten) by Sarah Hicks, from meeting held on March 10, 2016
- Business Licence Practice Meeting notes (partially handwritten) by Marie Fung (Supervisor, Licence Office), from meeting held on March 10, 2016
- Additional meeting notes (handwritten) by Marie Fung, from meeting held on March 10, 2016.

### **3 Vancouver Coastal Health Department**

- Letter from Jennifer Kassimatis (Senior Environmental Health Officer) to 'Whom It May Concern', sent to Miriam Donnelly, dated March 8, 2016
- Inspection Report by Environmental Health Officer, Judy Juatco, dated April 7, 2016
- Inspection Report by Environmental Health Officer, Judy Juatco, dated March 24, 2016
- Inspection Report by Environmental Health Officer, Judy Juatco, dated March 7, 2016

### **4 Police Department (VPD)**

- General Occurrence Report GO# VA 2015-236093, dated November 18, 2015
- Search Warrant for Business Pho Linh Vietnamese Restaurant, 325 East Broadway, Vancouver BC ("the premise") dated November 18, 2015
- Search Warrant for Dwelling House 1056 East 16<sup>th</sup> Avenue, City of Vancouver ("the premise")
- Inventory List of Seized Goods (10 pages) related to GO# VA 2015-236093

#### **Documents Seized**

##### **A. Room "D" (Kitchen of 1056 East 16<sup>th</sup> Ave)**

- RBC mortgage statement (2001) addressed to TRIEU at 1056 East 16<sup>th</sup> Ave
- Land Title Act form for RBC mortgage (page 1) addressed to TRIEU at 1056 East 16<sup>th</sup> Ave
- Life insurance document for life insurance on TRIEU
- Life insurance document for life insurance on LAM
- Connell Lightbody's letter regarding the mortgage for 1056 East 16<sup>th</sup> Ave, addressed to TRIEU at 1056 East 16<sup>th</sup> Ave
- Cheques for business owned by TRIEU, Wing Kee Cleaning
- Cheque (personal) for TRIEU with address of 1056 East 16<sup>th</sup> Ave

##### **B. Room "A" (Living Room of 1056 East 16<sup>th</sup> Ave)**

- Fortis bill in the name of LAM for 1056 East 16<sup>th</sup> Ave
- Fortis bill in the name of TRIEU for 1056 East 16<sup>th</sup> Ave
- Vancity bank statement for business Wee Kee Cleaning

- TD bank statement for TRIEU with address of 1056 East 16<sup>th</sup> Ave
- Revenue Services (BC) bill for TRIEU with address of 1056 East 16<sup>th</sup> Ave
- RBC bank statement for TRIEU with address 1056 East 16<sup>th</sup> Ave
- Homecover Insurance Protection Application and Declaration for TRIEU and address 1056 East 16<sup>th</sup> Ave

**C. 325 East Broadway (located on the bar and wall of the business)**

- London Life Insurance statement (2011) of account for LAM with address of 1056 East 16<sup>th</sup> Ave
- Terasen Gas bill (2008) addressed to TRIEU for 1056 East 16<sup>th</sup> Ave
- Letter regarding personal income tax addressed to LAM at 2719 Euclid Ave, dated April 25, 2005
- BC Hydro bill (2006) addressed to TRIEU for 325 East Broadway
- 2005 Lease Agreement for TRIEU for property at 325 East Broadway (1 page only)
- 2005 City of Vancouver Business Licence Application for TRIEU at 325 East Broadway
- Letter dated March 20, 2015 from Hunter McLeod Realty regarding outstanding rental fees for 325 East Broadway, sent to Pho Linh Vietnamese Restaurant (attention: Eva Lam)
- Copy of Lease Amendment Agreement for premises at 325 East Broadway, between the landlord and TRIEU (1015 East 16<sup>th</sup> Ave), dated July 3, 2014
- Canadian Border Services Agency declaration form (Aug.31, 2015) in the name of LAM
- Liquor Licence (#301711) issued September 22, 2015 to Pho Linh Restaurant to TRIEU
- Copy of page 2 & 3 of expired Canadian passport for LAM; Expired February 12, 2014

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**4 Police Department (VPD)**

**D. Photos of Seized Goods from 325 East Broadway and 1056 East 16<sup>th</sup> Ave**

- Contact Card "A" (Nov.18, 2015) Photos #3539-3564: Taken at 325 East Broadway
- Contact Card "A" (Nov.18, 2015) Photos #3565-3641: Taken at 1056 East 16<sup>th</sup> Ave
- Contact Card "B" (Nov.19, 2015) Photos #1742-1789: Taken at VPD property office
- Photos of property used in VPD scenarios #1 - #5 (37 pages)

Additional photos were received on October 4, 2016 from Vancouver Coastal Health and were distributed at the Hearing. The additional photos depicted various health issues including dirty rags and moldy sheets used to wrap produce, improper food storage and unsanitary conditions at the restaurant. Five additional police narratives by Detective Alen Ivezic were also distributed at the Hearing.

Documents contained in the evidence brief and additional photos and documents distributed at the Hearing contained information on alleged unsanitary conditions and activities at the premises. Specifically, the allegations centered around the Applicant purchasing stolen property and storing the items to be re-sold at a later date, along with operating the restaurant under unsanitary conditions.

Iain Dixon, Legal Department, was present on behalf of the City of Vancouver. William Jessop, Barrister and Solicitor, represented Ngoc Hoa "Eva" Lam. A Vietnamese interpreter was also in attendance to provide interpretation services for Ms. Lam.

Mr. Dixon advised this appeal had been brought before Council pursuant to Section 278 of the *Vancouver Charter* and he noted Council's discretion to uphold or overturn the decision of the Deputy Chief Licence Inspector to refuse to issue a business license to Ms. Lam, as per Section 275 of the *Vancouver Charter*.

Mr. Dixon referred the Panel to the reasons for the Deputy Chief Licence Inspector's refusal to issue a Business License to Ms. Lam, as set out in the Notice of Hearing dated September 15, 2016. Specifically, the Deputy Chief Licence Inspector recommended the refusal based on the allegations that:

- (a) the Applicant has had three repeated interactions with the Vancouver Police Department in relation to stolen retail items; and
- (b) the Deputy Chief Licence Inspector is of the belief that the Applicant is guilty of gross misconduct in the management of its business.

Mr. Dixon also discussed the principles of natural justice, in particular the requirements of notice and the opportunity to be heard.

In support of the allegations set out in the above-noted reports and evidence, Mr. Dixon called the following witnesses:

- Sarah Hicks, Deputy Chief Licence Inspector
- Jennifer Kassimatis, Senior Environmental Health Officer, Vancouver Coastal Health
- Detective Kirk Miles, Vancouver Police Department
- Detective Alen Ivezic, Vancouver Police Department

Following the witness testimony the Panel directed questions to the City's witnesses.

In his opening remarks, Mr. Jessop noted that Ms. Lam had not been charged with any crime and that the reason she had purchased stolen goods was to provide for her family and help refugees in the community. In addition he noted Ms. Lam had successfully completed the Food Safe Program and had complied with proper storage and handling of food at the restaurant. Mr. Jessop distributed correspondence received from customers who were in support of granting a Business Licence to Ms. Lam so she could continue the operation of her restaurant. A petition with approximately 92 names in support of Ms. Lam was also distributed.

In addition to testimony by Ms. Lam, Mr. Jessop called the following witnesses who all spoke in support of granting a Business Licence to Ms. Lam:

- Diane Lux
- Warren Sing
- Nykola Tyzio

Panel members asked questions to Ms. Lam.

\* \* \* \* \*

*At 9:10 pm, the Panel recessed and reconvened at 9:15 pm.*

\* \* \* \* \*

In closing, Mr. Jessop submitted that Ms. Lam had remedied the problems at the restaurant, had passed inspections, and was in good standing in the community. He urged the Panel to grant Ms. Lam a Business Licence with conditions if necessary, so she could continue the operation of her restaurant.

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*At 9:55 pm it was,*

*MOVED by Councillor Louie  
SECONDED by Councillor De Genova*

*THAT the end time of the meeting be extended to complete the Business Licence Hearing.*

*CARRIED UNANIMOUSLY*

\* \* \* \* \*

In closing, Mr. Dixon submitted that the evidence presented at the Hearing confirmed that the decision by the Deputy Chief License Inspector to refuse a Business Licence to Ms. Lam, should be upheld.

#### **PANEL MEMBERS DISCUSSION AND DECISION**

During discussion, Panel members made note of Ms. Lam's poor judgement, suspicious behavior, and lack of understanding of the gravity of the situation, putting the community at risk. .

MOVED by Councillor De Genova  
SECONDED by Councillor Louie

THAT the decision by the Deputy Chief Licence Inspector to refuse to issue a Business Licence to Ngoc Hoa "Eva" Lam, for the business premises located at 325 East Broadway, Vancouver, BC, be upheld because:

- (a) the Applicant has had repeated interactions with the Vancouver Police Department in relation to stolen retail items; and

- (b) the Deputy Chief Licence Inspector is of the belief that the Applicant is guilty of gross misconduct in the management of its business.

CARRIED UNANIMOUSLY

**ADJOURNMENT**

MOVED by Councillor Louie  
SECONDED by Councillor De Genova

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Business Licence Hearing Panel adjourned at 10:10 pm.

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