



BUSINESS LICENCE HEARING MINUTES

JANUARY 23, 2018

A Business Licence Hearing was held on Tuesday, January 23, 2018, at 9:38 am, in the Council Chamber, Third Floor, City Hall, to consider the Deputy Chief Licence Inspector's refusal of the Business Licence transfer application by Leroy Plummer (the "Applicant") for business premises located at 2528 Kingsway, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor Melissa De Genova, Chair
Councillor Elizabeth Ball
Councillor Heather Deal

CITY CLERK'S OFFICE: Maria Castro, Meeting Coordinator

1. Ohukuya Japanese Restaurant 2528 Kingsway

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

- Letter from City Clerk dated January 9, 2018
- Notice of Hearing dated January 4, 2018

2 Licenses & Inspections Department

A. Business Licence

- 2017 Business Licence #17-144176 issued to 0869217 BC Ltd.
- Business Licence Transfer Authorization signed by Hui Tung Cheung on July 8, 2017
- Business Licence General Application by Leroy Plummer dated July 10, 2017
- BC Registry Notice of Change of Directors for 0869217 BC Ltd. filed July 15, 2017
- BC Company Summary for 0869217 BC Ltd. as at August 4, 2017

B. Correspondence

- Email exchange between Matt Stainby, counsel for Leroy Plummer, and Sarah Hicks, Deputy Chief Licence Inspector

- Email exchange between Matt Stainby and Sarah Hicks
- Letter from Sarah Hicks to Leroy Plummer, dated October 10, 2017
- Notes of Sarah Hicks from meeting held on August 29, 2017

3 Vancouver Police Department (VPD)

A. Police Information Check

B. Correspondence

- Email exchange between Constable Jodyne Keller and Sarah Hicks
- Email exchange between Constable Keller and Miriam Donnelly

Iain Dixon, Assistant Director - Regulatory Litigation, Legal Department, was present on behalf of the City of Vancouver. Matt Stainsby, Lindsay Kenney LLP, was present on behalf of Leroy Plummer (the "Applicant").

At the commencement of proceedings, Mr. Dixon advised this appeal had been brought before the Council pursuant to Section 275 of the *Vancouver Charter*, and noted Council's discretionary powers to uphold or overturn the decision of the Deputy Chief Licence Inspector to refuse the Business Licence transfer application by Mr. Plummer, as set out in Section 4.(4) of Licence By-law 4450. Mr. Dixon also discussed the principles of natural justice, in particular the requirements of notice and the opportunity to be heard.

Mr. Dixon referred the Panel to the reasons for the Deputy Chief Licence Inspector's refusal to transfer the Business Licence, as set out in the Notice of Hearing dated January 4, 2018. Specifically, the Deputy Chief Licence Inspector refused the Business Licence application transfer based on the fact that:

1. the Applicant has an ongoing criminal matter in which he has been charged with possession of cannabis over 30 grams;
2. the Applicant has a poor history with his prior business in the City of Burnaby; and
3. the Deputy Chief Licence Inspector is of the belief that the above factor would have a negative impact on the management of the business.

In support of the allegations set out in the above-noted reports and evidence, Mr. Dixon called Sarah Hicks, Deputy Chief Licence Inspector, as witness.

Mr. Dixon, the Panel and Mr. Stainsby directed questions to the City's witness.

Mr. Stainsby submitted his opening remarks and a brief (*on file*) containing the following:

- Email exchange between Matt Stainsby and Jordan Allingham, counsel for Leroy Plummer, and Anthony Varesi, Crown Prosecutor.

Mr. Dixon recommended that the Panel accept that the charges regarding Mr. Plummer's criminal matter, have been stayed, as confirmed in the evidence brief submitted by Mr. Stainsby.

Mr. Stainsby called Leroy Plummer, Licence Applicant, as witness.

The Panel and Mr. Dixon directed questions to the Licence Applicant.

In closing, Mr. Dixon briefly summarized the evidence and noted that Ms. Hicks had concerns regarding the business and appropriately referred the matter to Council. At the time, Ms. Hicks was not aware that the criminal matter in which Mr. Plummer has been charged with was not proceeding and thus, Mr. Dixon advised there is no criminal record at issue, as Mr. Plummer has satisfied the requirements of the Crown Counsel with respect to completing an alternative measures program.

Mr. Dixon further advised the Panel to consider the problematic history concerning Mr. Plummer's previous business in Burnaby, as presented before them, and whether or not it is sufficient to warrant the denial of the Business Licence transfer application to Mr. Plummer.

In closing, Mr. Stainsby noted that the allegations concerning Mr. Plummer's business in Burnaby were vague and occurred during a period of time seven years ago. Mr. Stainsby urged the Panel to grant Mr. Plummer the ability to carry on the business and make his livelihood, and work towards becoming a successful business operator.

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The Panel recessed at 11:03 am and reconvened at 11:09 am.

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PANEL MEMBERS DISCUSSION

MOVED by Councillor Deal

SECONDED by Councillor Ball

THAT the Deputy Chief Licence Inspector's refusal of the Business Licence transfer application by Leroy Plummer (the "Applicant") for business premises located at 2528 Kingsway, Vancouver, British Columbia, be overturned, and as a result, the Business Licence transfer application be granted on the basis that conditions are attached to the Business Licence, with respect to hours of operation and other conditions as required, in accordance with licensing procedures, *Licence By-law 4450*, and as determined by the Deputy Chief Licence Inspector.

CARRIED UNANIMOUSLY

ADJOURNMENT

MOVED by Councillor Deal
SECONDED by Councillor Ball

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Business Licence Hearing Panel adjourned at 11:16 am.

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