



BUSINESS LICENCE HEARING MINUTES

APRIL 24, 2018

A Business Licence Hearing was held on Tuesday, April 24, 2018, at 9:35 am, in the Council Chamber, Third Floor, City Hall, to consider the recommendation by the Deputy Chief Licence Inspector to revoke the Business Licence issued to Van De Nguyen (the "Licencee"), for the business premises located at 2234 Kingsway, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor Raymond Louie, Chair
Councillor Melissa De Genova
Councillor Heather Deal

CITY CLERK'S OFFICE: Lori Isfeld, Meeting Coordinator

1. Thuong Dang Dahn Tea Shop 2234 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

- Dated October 20, 2017 (for hearing scheduled on November 28, 2017)
- Dated May 16, 2017 (for hearing scheduled on June 6, 2017)
- Dated March 29, 2017 (for hearing scheduled on April 18, 2017)
- Dated February 15, 2017 (amended, for hearing scheduled on February 28, 2017)
- Dated February 6, 2017 (for hearing scheduled on February 28, 2017)
- Memorandum to Business Licence Hearing Panel dated December 14, 2016

2 Licenses & Inspections Department

A. Business Licences

- 2017 Business Licence #17-142046 issued to Van De Nguyen, Thuong Dang Dahn Tea Shop, located at 2234 Kingsway
- 2016 Business Licence #16-143677 issued to Van De Nguyen, Thuong Dang Dahn Tea Shop, located at 2234 Kingsway
- BC Registry Sole Proprietorship Summary for Thuong Dang Danh Tra Tea Shop

B. Correspondence

- Letter from Deputy Chief Licence Inspector Sarah Hicks to Van De Nguyen and Tony Lagemaat, counsel for Van De Nguyen, dated November 21, 2016
- Letter from Tony Lagemaat to Sarah Hicks, dated September 21, 2016
- Letter to from Sarah Hicks to Van De Nguyen, dated September 13, 2016
- Business Licence Practice Meeting Notes of Sarah Hicks from meeting held on October 18, 2016
- Business Licence Practice Meeting Notes of Marie Fung (Supervisor, Licence Office), from meeting held on October 18, 2016

3 Vancouver Police Department (VPD)

- A. General Occurrence Report GO# VA 2016-111019
- B. List of items seized from 2234 Kingsway and 3309 Queens Avenue
- C. Documents seized from 2234 Kingsway and 3309 Queens Avenue
- D. Photographs of Seized Goods from 2234 Kingsway and 3309 Queens Avenue
- E. Hand-drawn sketch plans of from 2234 Kingsway and 3309 Queens Avenue
- F. Narrative by Det/Cst. Alen Ivezic from GO VA 2016-75213

The Panel also had before it a transcription submitted by the lawyer for the Licencee, from the Provincial Court of British Columbia, dated March 9, 2018, File No.: 243953-1, entitled "Regina v. Van De Nguyen – Reasons for Sentence of the Honourable Judge Denhoff".

Iain Dixon, Assistant Director – Regulatory Litigation, Legal Department, was present on behalf of the City of Vancouver. Tony Lagemaat, Lawyer, was present on behalf of Van De Nguyen (the Licencee). Mr. Nguyen was also assisted by Vietnamese interpreter Anna Diep Dao.

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 revoke the Business Licence issued to Van De Nguyen (the "Licencee") for the business premises located at 2234 Kingsway, Vancouver, British Columbia (the "Premises"), 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 recommendation to revoke the Business Licence issued to Van De Nguyen, as set out in the Notice of Hearing dated April 3, 2018. Specifically, the Deputy Chief Licence Inspector recommended the Business Licence be revoked on the fact that:

1. the Licencee has had interactions with the Vancouver Police Department in relation to stolen retail items; and
2. the Deputy Chief Licence Inspector is of the belief that the Licencee is guilty of gross misconduct in 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. Lagemaat directed questions to the City's witness.

Mr. Lagemaat submitted opening remarks, questioned the reliability of the allegations, and noted the financial hardship that losing the business licence would have on Mr. Nguyen's family. He also submitted that in the transcription, Judge Denhoff had expressed her satisfaction that this experience has been a learning lesson for Mr. Nguyen. He requested that Mr. Nguyen be able to continue operating his business until his retirement.

The Panel directed questions to the Licence Applicant via Mr. Lagemaat.

Mr. Dixon provided closing comments and noted that in the transcription, Judge Denhoff had suggested that as part of Mr. Nguyen's punishment for the crimes he had been convicted for, City Council would likely be in agreement with the Deputy Chief Licence Inspector's recommendation to revoke his business licence.

Mr. Lagemaat provided closing comments.

PANEL MEMBERS DISCUSSION

MOVED by Councillor De Genova
SECONDED by Councillor Councillor Deal

THAT the recommendation by the Deputy Chief Licence Inspector to revoke the Business Licence issued to Van De Nguyen for business premises located at 2234 Kingsway, Vancouver, BC, be upheld because:

1. the Licencee has had interactions with the Vancouver Police Department in relation to stolen retail items;
2. the Deputy Chief Licence Inspector is of the belief that the Licencee is guilty of gross misconduct in the management of the business; and
3. the Licencee has being found guilty of unlawfully counselling an undercover Police Officer to steal goods, contrary to Section 464(a) of the Criminal Code, and also of attempting to be in possession of stolen goods contrary to Sections 355 and 463(d) of the Criminal Code.

CARRIED UNANIMOUSLY (Vote No. 02781)

ADJOURNMENT

MOVED by Councillor Deal
SECONDED by Councillor De Genova

THAT the meeting be adjourned.

CARRIED UNANIMOUSLY

The Business Licence Hearing Panel adjourned at 10:28 am.

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