



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES
JUNE 23, 2005

A Business License Hearing of the Council of the City of Vancouver was held on Thursday, June 23, 2005, at 9:30 a.m., in the Council Chamber, Third Floor, City Hall, to determine whether or not a City of Vancouver business license for the year 2005 should be granted to Zainab Bibi Khan (the "License Applicant"), for a convenience store located at 120 West Hastings Street, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor Peter Ladner, Chair
Councillor Fred Bass
Councillor Jim Green

CITY CLERK'S OFFICE: Tina Hildebrandt, Meeting Coordinator

1. Zainab Bibi Khan (File 2711-98)

The Business License 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:

Notice of Hearing

Tab

1 Licenses and Inspections - Current Application - 120 W Hastings

Business License Application dated December 15, 2004
Criminal Record Check dated February 9, 2005
Copy of Drivers License
Business Plan dated February 9, 2005
Fax to Jill Proctor from Susan Smith dated February 17, 2005
E-mail to Susan Smith from Jill Proctor dated March 2, 2005
Handwritten Notes dated April 28, 2005
Letter to Zainab Bibi Khan from Barb Windsor dated April 29, 2005
E-mail to Jaspreet Malik from Barb Windsor dated May 4, 2005
Letter to Barb Windsor from Jaspreet Malik dated May 12, 2005
Letter to Barb Windsor from Jaspreet Malik dated May 21, 2005
Property Use Inspection Report #UI 26608 dated June 2, 2005
Property Use Inspection Report #UI 26656 dated June 8, 2005

2 History - 120 W Hastings

Business Plan dated July 27, 1998

Criminal Record Check dated July 28, 1998
Letter of Intent dated August 4, 1998
1998 Business License #98-241076 dated October 7, 1998
1999 Business License #99-310994 dated January 12, 1999
Police Report #99-25889 dated February 4, 1999
Police Report #99-62298 dated March 24, 1999
Police Report #99-89849 dated April 27, 1999
Police Report #99-179426 dated August 10, 1999
Police Report #99-179478 dated August 11, 1999
Police Report #99-183039 dated August 15, 1999
Police Report #99-195269 dated August 28, 1999
Letter to Nargis Malik from Paul Teichroeb dated January 19, 2000
Police Report #00-45369 dated February 27, 2000
Police Report #00-49912 dated March 5, 2000
Letter to Nargis Malik from Paul Teichroeb dated March 31, 2000
Handwritten Notes dated September 10, 2004
Letter to Sheraz Sabri from Barb Windsor dated September 14, 2004
Business License Hearing Minutes dated November 4, 2004
Business License Hearing Council Decision dated November 4, 2004
Letter to Sheraz Sabri from Barb Windsor dated November 9, 2004

3 History - 2785 Commercial Drive

1997 Business License #97-034301 dated April 2, 1997
Police Notes dated September 8, 1997
Police Report #97-225533 dated September 8, 1997
1997 Business License #97-142871 dated November 14, 1997
Complaint dated March 6, 1998
Complaint dated March 30, 1998
Police Request for Special Attention
Police Notes
Police Report #98-83458 dated April 15, 1998
Police Notes
Memo to Guy Gusdal from Gerry Burke dated May 26, 1998
Letter to Guy Gusdal from Barb Wright dated May 26, 1998
Letter to Aisha Khan from Paul Teichroeb dated June 2, 1998
Handwritten Notes dated June 17, 1998
Letter to Aisha Khan from Paul Teichroeb dated June 22, 1998
Fax to Robert Finlay from Guy Gusdal dated July 29, 1998
Letter of Intent dated July 29, 1998
1998 Business License #98-207957 dated September 9, 1998
1999 Business License #99-311171 dated January 22, 1999
Police - Criminal Information dated July 7, 2000

4 S & R Grocery - 102 W Hastings

2004 Business License #04-021132 dated January 7, 2004
2005 Business License #05-147224 dated December 13, 2004

5 Miscellaneous Police Reports

Report #00-100475 dated May 8, 2000

Report #2004-283031 dated October 30, 2004

Catherine Kinahan, Counsel, was present on behalf of the City of Vancouver. Ms. Zainab Bibi Khan, the License Applicant, was present and was represented by Jaspreet S. Malik, South Fraser Law Group. Ms. Khan was also aided by Ms. Amita Sharma, certified Urdu interpreter.

Ms. Kinahan advised that this matter had been referred to City Council by the Chief License Inspector pursuant to Section 4(2a) of the License By-law of the City of Vancouver and that proceedings were taking place pursuant to Section 275 of the Vancouver Charter, which provides that the issuance of a business license is deemed to be at the discretion of Council, and Section 277.1 of the Vancouver Charter, which confers on Council the power to delegate the holding of business license hearings to one or more Council members.

Ms. Kinahan referred the Panel to evidence before it as set out in documents which were considered by the Chief License Inspector in referring the business license to Council, a letter from the Deputy Chief License Inspector and the evidence of witnesses, which set out the allegations that:

- (a) the License Applicant lives out of province and therefore will not be in a position to maintain control over the Premises;
- (b) the proposed business is in the Downtown Eastside where there are a large number of convenience stores already in operation and a significant problem with trafficking in illicit drugs from those convenience stores, which can result from lack of control and poor business management practices and causes a drain on police and City resources; and
- (c) the proposed business location has a history of problems caused by poor management and lack of control, the proposed business does not appear to be commercially viable and the License Applicant has not produced a business plan.

The Panel also had before it an evidence brief submitted by Mr. Malik at the hearing entitled "Khan's Book of Documents" (*on file in the City Clerk's Office*), which included a Statutory Declaration from Ms. Khan.

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

1. Barb Windsor, Deputy Chief License Inspector
2. Darren Mueske, Property Use Inspector
3. PC 1488 Alex Parker
4. PC 1703 Derek Peterson

Mr. Malik also directed questions to the witnesses.

Mr. Malik submitted that one of the most important issues is whether Ms. Khan will be able to maintain control of the premises and added that she was in the process of moving to Vancouver but had to stop when the business license application was denied. He pointed out that Ms. Khan clearly stated in her Statutory Declaration that it is her intention to move to Vancouver in order to be the owner/operator of the premises. He also added that she has never been charged by the police nor has she been involved in the drug trade.

Mr. Malik called Ms. Zainab Bibi Khan as a witness. In response to questions from Mr. Malik and the Panel, Ms. Khan, with the aid of the interpreter, reviewed her business history and plans for operating the premises at 120 West Hastings Street. She felt she had enough experience in the grocery business that a business plan was not needed. With regard to management of the premises, she noted that her brother, who has a history of drug trafficking, would not be involved in the operation of this business. However, she added that he may need to assist her in lifting heavy items but will not be paid. With regard to the location, Ms. Khan advised it is in the downtown where there is always a rush of people who will need to purchase goods. She also added that she will run a good business and attract customers.

Ms. Kinahan submitted that the City only has Ms. Khan's assurance that she will move to Vancouver once she gets the business license; however, if the City issues the business license and she decides not to move here then it will likely create a situation similar to that currently taking place in this neighbourhood. She further submitted that Ms. Khan wants to lease a business she hasn't even seen yet in an area that she hasn't done any research in and expects to make a profit based on uncertain assumptions. In closing, Ms. Kinahan advised that had Ms. Khan been living in Vancouver already or had she applied for a business license in a location in Vancouver other than the Downtown Eastside, it would have been a different circumstance.

Mr. Malik submitted that the Panel should consider Ms. Khan's Statement of Declaration, the only piece of sworn evidence before it. With regard to the issue of maintaining control of the premises, he advised that Ms. Khan has sworn she will be on the premises seven days a week and felt it was an improper inference to assume that because there is an existing drug problem in this neighbourhood this business will fall into the same activity. He asked that the Panel not consider the evidence regarding her brother, as it would be improper to consider these issues, but rather consider whether Ms. Khan can maintain control and the evidence shows that she can. In closing, he asked that the Panel consider giving Ms. Khan a chance and granting her the business license. He added that should this business become a problem then the City can call her back and revoke her business license.

PANEL MEMBERS DISCUSSION

MOVED by Councillor Green

THAT the application for a 2005 Business License by Zainab Bibi Khan (the "License Applicant"), for a convenience store located at 120 West Hastings Street, Vancouver, British Columbia (the "Premises"), be refused because:

- (a) the License Applicant lives out of province and therefore will not be in a position to maintain control over the Premises;
- (b) the proposed business is in the Downtown Eastside where there are a large number of convenience stores already in operation and a significant problem with trafficking in illicit drugs from those convenience stores, which can result from lack of control and poor business management practices and causes a drain on police and City resources; and
- (c) the proposed business location has a history of problems caused by poor management and lack of control, the proposed business does not appear to be commercially viable and the License Applicant has not produced a business plan.

CARRIED
(Councillor Bass opposed to c.)

The Business License Hearing Panel adjourned at 12:13 p.m.

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