

These minutes will be adopted at the regular Council meeting on September 13, 2005



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES
JULY 19, 2005

A Business License Hearing of the Council of the City of Vancouver was held on Tuesday, July 19, 2005, at 7:30 p.m., in the Council Chamber, Third Floor, City Hall.

PRESENT: Councillor Tim Stevenson, Chair
Councillor Peter Ladner
Councillor Raymond Louie

CITY CLERK'S OFFICE: Nicole Ludwig, Meeting Coordinator

At the Regular Council meeting immediately following the Standing Committee on Planning and Environment meeting on July 14, 2005, Vancouver City Council approved the following:

THAT Councillor Stevenson replace Councillor Green as the Chair of the Business License Hearing panel on July 19, 2005, at 7:30 p.m.

1. **Nasser Sakiani dba Rose Food Market**
927 Seymour Street, Vancouver, British Columbia (File 2711-101)

AND

Sima Sakidezfuli and/or Milano Market Ltd.
927 Seymour Street, Vancouver, British Columbia (File 2711-102)

A Business License Hearing of the Council of the City of Vancouver was held to determine:

- whether or not the 2005 City of Vancouver business license granted to Nasser Sakiani doing business as Rose Food Market (the "Licensee"), for business premises located at 927 Seymour Street, Vancouver, British Columbia (the "Premises") should be suspended or revoked; and,
- to determine whether or not a 2005 City of Vancouver business license should be issued to Sima Sakidezfuli and/or Milano Market Ltd. (the "License Applicants"), for business premises located at 927 Seymour Street, Vancouver, British Columbia (the "Premises").

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

2000 Business License #00-348512 dated April 6, 2000
2001 Business License #01-124335 dated February 13, 2001
2002 Business License #02-109915 dated January 15, 2002
2003 Business License #03-401620 dated January 3, 2003
2004 Business License #04-024502 dated June 1, 2004
2005 Business License #05-148534 dated December 24, 2004
Application for Transfer dated May 12, 2005
Business License Application dated May 12, 2005
Company Search
Letter to Nasser Sakiani from Barb Windsor dated May 25, 2005
Property Use Inspection Report #UI 26544 dated May 25, 2005
Handwritten Notes dated June 6, 2005
Letter to Nasser Sakiani from Barb Windsor dated June 16, 2005
Property Use Inspection Report #UI 26735 dated June 16, 2005
Letter to David Hopkins from Catherine Kinahan dated June 16, 2005
Handwritten Notes dated June 17, 2005
Handwritten Notes dated June 27, 2005
Petitions
Letter to Catherine Kinahan from David Hopkins dated June 29, 2005
Letter to Sima Sakidezfuli from Barb Windsor dated June 30, 2005

2 Health Department

Report dated January 2, 2003
Report dated September 10, 2003
Letter to Owner from Heather Langemann dated September 15, 2003
Report dated September 15, 2003
Reports dated November 24, 2003
Handwritten notes
Report dated December 2, 2003
Letter to Nasser Sakiani from Heather Langemann dated February 24, 2004 and
background information
Report dated February 16, 2004
Report dated February 19, 2004
Report dated February 23, 2004
Reports dated March 15, 2004
Handwritten Notes
Report dated March 18, 2004
Report dated August 4, 2004

2 Health Department, con't

Letter to Nasser Sakiani from Heather Langemann dated August 11, 2004 and background information
Report dated February 14, 2005
Letter to Nasser Sakiani from Claire Avison dated April 14, 2005
Letter to Anne Sandbu from Claire Avison dated April 14, 2005
Report dated April 26, 2005
E-mail to Susan Smith from Barb Windsor dated May 19, 2005
Memo to Barb Windsor from Claudia Kurzac dated May 24, 2005

3 Tobacco Enforcement

Typed Notes dated May 13, 2005

4 Police Department

Narrative Report #2005-124155 dated May 25, 2005
Evidence Report #2005-124155
Handwritten Notes dated May 10, 2005
Handwritten Notes dated May 11, 2005
Handwritten Notes dated May 12, 2005
Report #2005-124155 dated May 13, 2005
Handwritten Notes of Activity
Photocopies of Currency
E-mail to Wendy Sinclair from Garry Oleskiw dated May 17, 2005
Follow Up Request dated June 29, 2005
Report #2005-124155 dated June 29, 2005
Photos

5 Complaints from Public

E-mail to Wendy Sinclair from Mike Cox dated May 20, 2005
Handwritten Letter of Natasha Viginal
Handwritten Letter of Kevin
Continued Statement of Kevin
Letter to Mr. Campbell from Craig Warkentin
Letter from John Chersak dated June 21, 2005
Letter to Tony Sartori from Victor Chung dated June 22, 2005
VPD Report #2005-124155 dated July 4, 2005
Letter from Karen English dated July 4, 2005
Handwritten letter from Gigi Lai

The following evidence was also distributed to the Panel before the Hearing:

Report #2005-124155 - number of each photograph and description
Photos

Counsel for the City of Vancouver also submitted the following additional documents as evidence:

Vancouver Coastal Health Tobacco Investigation Report dated June 14, 2001
Vancouver Coastal Health Tobacco Investigation Report dated November 9, 2004
Letter and copy of Certificate of Registration from Ministry of Provincial Revenue
(Consumer Taxation Branch) dated May 24, 2005
Letter from Anne Sandbu, Director Tobacco Tax Act dated June 17, 2005

Catherine Kinahan, Law Department, was present on behalf of the City of Vancouver. Mr. Sakiani was not present to make representation although he had been notified well in advance that a hearing would be taking place. The Licensee's lawyer had written a letter to the City indicating Mr. Sakiani did not wish to make any representations regarding his license for the premises. Ms. Kinahan advised Mr. Sakiani had not surrendered his license and therefore the Panel would have to make a decision on whether to suspend or revoke his license. Ms. Kinahan also advised Ms. Sakidezfuli, the License Applicant, was present and that the Applicant was the wife of the Licensee. Ms. Kinahan advised that the evidence to be called was relevant to both the existing license and the license application, and the Panel could make rulings in regards to both issues at the hearing.

Ms. Kinahan advised the matter had been referred to City Council by the Chief License Inspector pursuant to section 278 of the *Vancouver Charter*, and section 277.1 of the *Vancouver Charter* which confers on Council the authority 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 suspending the license, and the evidence of witnesses, which set out allegations that the Licensee and the License Applicant had failed to properly manage the Premises in the past by:

- (a) carrying on business to the detriment of the safety and well-being of the public;
- (b) creating unfair competition for local business which operate in a legitimate manner, by purchasing and re-selling stolen property;
- (c) unlawfully keeping for sale or selling or giving liquor to persons on the Premises without a license, in contravention of the *Liquor Control and Licensing Act*;
- (d) selling tobacco to minors, in contravention of the *Tobacco Sales Act*; and
- (e) selling tobacco that does not bear the prescribed mark or stamp indicating that tax imposed on the tobacco has been accounted for, in contravention of the *Tobacco Tax Act*.

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

1. Barbara Windsor, Deputy Chief License Inspector
2. Sgt #1260 Gary Oleskiw
3. PC #1537 Wendy Sinclair
4. Det #118 Jeff Wright
5. Benjamin Tinline
6. Heather Langeman
7. Natasha Vignal
8. Craig Warkentin

Ms. Sakidezfuli also asked questions of the witnesses.

Ms. Sakidezfuli submitted that she is currently separated from her husband, and that she had no idea her husband was involved in illegal activities at the store. She requested Council grant her the business license to give her a new start. She promised nothing bad would happen in the store in the future should she be granted a license.

Ms. Sakidezfuli then responded to questions from Panel members and Counsel for the City of Vancouver regarding her knowledge of the presence of stolen property in the store, the testimony that she had ordered property from an undercover officer, the sale of drug paraphernalia, including crack pipes, brillo and hypodermic syringes, and the issue of whether she, or Mr. Sakiani, had applied for a new PST number in order to circumvent a 6-month Provincial tobacco license suspension.

PANEL MEMBERS DISCUSSION

Prior to making a decision, Panel members indicated concerns about the timing of the applications by Ms. Sakidezfuli for a new business license and a new PST number, which appeared to be an attempt to avoid responsibility for the consequences flowing from the history of poor management of the store. The Panel was also concerned about whether or Ms. Sakidezfuli was truthful in claiming that she was no longer associated with Mr. Sakiani. The Panel questioned the credibility of the License Applicant and indicated that Council had an obligation to the neighbourhood from the impact of this business, which had facilitated the activities of drug dealers and addicts. Finally, the Panel indicated support for Ms. Sakidezfuli's attempt to make a new start and advised that if she were to disassociate herself from Mr. Sakiani and from this neighbourhood, there was a possibility of her receiving a business license for another location in Vancouver in the future.

MOVED by Councillor Louie

1. THAT the 2005 Business License issued to Nasser Sakiani doing business as Rose Food Market (the "Licensee") for business premises located at 927 Seymour Street, Vancouver, British Columbia (the "Premises"), be revoked because the Licensee has failed to properly manage the premises by:
 - a) carrying on business to the detriment of the safety and well-being of the public;

- b) creating unfair competition for local business which operate in a legitimate manner, by purchasing and re-selling stolen property;
- c) unlawfully keeping for sale or selling or giving liquor to persons on the Premises without a license, in contravention of the Liquor Control and Licensing Act;
- d) selling tobacco to minors, in contravention of the *Tobacco Sales Act*; and
- e) selling tobacco that does not bear the prescribed mark or stamp indicating that tax imposed on the tobacco has been accounted for, in contravention of the *Tobacco Tax Act*.

FURTHER THAT any future business license applications submitted to the City of Vancouver by Nasser Sakiani be referred to Vancouver City Council by the Chief License Inspector.

2. THAT the application for a 2005 Business License by Sima Sakidezfuli and/or Milano Market Ltd (the "License Applicant") for business premises located at 927 Seymour Street, Vancouver, British Columbia (the "Premises"), be refused because the License Applicant has failed to properly manage the premises by:
- a) carrying on business to the detriment of the safety and well-being of the public;
 - b) creating unfair competition for local business which operate in a legitimate manner, by purchasing and re-selling stolen property;
 - c) unlawfully keeping for sale or selling or giving liquor to persons on the Premises without a license, in contravention of the *Liquor Control and Licensing Act*;
 - d) selling tobacco to minors, in contravention of the Tobacco Sales Act; and
 - e) selling tobacco that does not bear the prescribed mark or stamp indicating that tax imposed on the tobacco has been accounted for, in contravention of the *Tobacco Tax Act*.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 10:44 p.m.

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