



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES

September 13, 2005

A Business License Hearing of the Council of the City of Vancouver was held on, Tuesday, September 13, 2005, in the Council Chamber, Third Floor, City Hall, commencing at 9:30 a.m., to hear an appeal regarding the suspension of the City of Vancouver business license for the year 2005 granted to Kevin Winpenny (the "License Applicant"), doing business as Pizza City, for business premises located at 160 East Hastings Street, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor David Cadman, Chair
Councillor Tim Stevenson
Councillor Ellen Woodsworth

CITY CLERK'S OFFICE: Diane Clairmont, Meeting Coordinator

1. Kevin Winpenny dba Pizza City - 160 East Hastings Street (File 2711-103)

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

1 Licenses and Inspections

Commercial Lease
Application for Transfer dated August 4, 2004
Business License Application dated August 5, 2004
Police Background Check of Kevin Winpenny dated August 6, 2004
Copy of Drivers License of Kevin Winpenny
Business Plan dated August 6, 2004
Health Permit dated September 1, 2004
Police Background Check of Joseph Doyle dated September 2, 2004
Copy of Drivers License of Joseph Doyle
E-mail to Susan Smith from Jill Proctor dated October 25, 2004
Handwritten Notes dated December 15, 2004
Handwritten Notes dated December 21, 2004
2005 Business License #05-170129 dated December 21, 2004
Letter to Kevin Winpenny from Barb Windsor dated July 11, 2005
Property Use Inspection Report #UI 26944 dated July 12, 2005
Handwritten Notes dated July 18, 2005
Letter to Kevin Winpenny from Barb Windsor dated August 2, 2005
Property Use Inspection Report #UI 27203 dated August 3, 2005
Letter to Barb Windsor from Kevin Winpenny dated August 9, 2005
Letter to Kevin Winpenny from Barb Windsor dated August 12, 2005
Property Use Inspection Report #UI 27313 dated August 12, 2005

2 Police Department

Violation Report, Offence Date June 22, 2005 and attachments
Report #2005-157854 dated June 22, 2005

Mr. Iain Dixon, Counsel, was present on behalf of the City of Vancouver. Mr. Kevin Winpenny, the Licensee, was present and represented himself.

Mr. Dixon advised this matter had been referred to City Council by the Chief License Inspector pursuant to section 8(1) of the *License By-law* of the City of Vancouver and that proceedings were taking place pursuant to Section 277 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.

Mr. Dixon advised the hearing will reflect the impact of the Licensee's activities on the neighbourhood and police resources, and noted that the business has remained open pending results of the appeal.

Mr. Dixon 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 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) carrying on business to the detriment of other licensed businesses in the City of Vancouver; and
- (c) dealing tobacco in contravention of the Tobacco Sales Act, R.S.B.C. 451, 1996.

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

1. Barb Windsor, Deputy Chief License Inspector
2. PC # 1138, Val Woollacott

Ms. Windsor noted that Mr. Winpenny is selling the business and that a business license application has been submitted to the City. She further noted that to date there has been no response from the police and that this process will take at least four weeks.

The Licensee did not direct any questions to the witnesses.

Mr. Winpenny acknowledged that while he did have marijuana on the premises, it was for personal use only and he did not sell it. He further acknowledged that he did purchase the lighters, and single cigarettes which he sold on the premises. He submitted that the ID in question was left on the premises in error and was not taken as collateral. Mr. Winpenny submitted that these illegal activities were necessary in order to make a living and remain competitive. He advised that while Ms. Windsor had discussed with him the issue of obtaining

a license to sell cigarettes, he chose not to make application to do so as he did not have the money to stock the legal amount of cigarettes. He further stated that he did not do sufficient research initially into the requirements to be successful in that particular part of the City, that subsequently he has lost a partner and finds the business too difficult to run. Mr. Winpenny acknowledged that the suspension is fair, but asked Council to consider that he is a good person and is selling his business in order to make a fresh start elsewhere and that the suspension would impede his ability to sell the business.

PANEL MEMBERS DISCUSSION

Panel members clarified the status of the new business license application, the role of the City in assisting the sale of a business, and the message that revoking the suspension would send to other business operators and applicants. Panel members strongly stated that a message must be sent to the community that the City will not tolerate these transgressions which tax both city and police resources.

MOVED by Councillor Woodsworth

THAT the 2005 Business License issued to Kevin Winpenny doing business as Pizza City (the "Licensee") for business premises located at 160 East Hastings Street, Vancouver, British Columbia (the "Premises"), be suspended for two months 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) carrying on business to the detriment of other licensed businesses in the City of Vancouver; and
- (c) dealing tobacco in contravention of the *Tobacco Sales Act*, R.S.B.C. 1996, c. 451.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 10:37 a.m.

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