

CITY OF VANCOUVER

BUSINESS LICENSE HEARING MINUTES

SEPTEMBER 22, 2005



A Business License Hearing of the Council of the City of Vancouver was held on Thursday, September 22, 2005, at 7:35 p.m., in the Council Chamber, Third Floor, City Hall, to determine whether or not the 2005 City of Vancouver business license granted to Sajida Khan doing business as S & R Grocery Store (the ALicensee@), for business premises located at 102 West Hastings Street, Vancouver, British Columbia (the "Premises") should be suspended or revoked.

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

CITY CLERK'S OFFICE: Pat Boomhower, Meeting Coordinator

1. Sajida Khan dba S & R Grocery Store (File 2711-100)

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 dated July 8, 2005

Letter to Talman Rodocker from Catherine Kinahan dated August 10, 2005
Police Misc. and Supplementary Report #00-255651 dated November 7, 2000
Police Misc. and Supplementary Report #00-272846 dated December 1, 2000
Letter to Talman Rodocker from Catherine Kinahan dated July 14, 2005
Property Use Inspection Report # UI 26908 dated July 8, 2005, with 11 photographs

Tab

1 Licenses and Inspections Department - 102 West Hastings

Letter to the Mayor from Bill X. dated May 18, 2000
Criminal Record Check of Shern Khan dated June 12, 2000
Business Plan (Retail) dated June 26, 2000
2000 Business License #00-375845 dated July 27, 2000
Email to Barb Windsor from Jill Fedirchuk dated August 17, 2000
Handwritten notes dated August 21, 2000
2001 Business License #01-121241 dated January 29, 2001
Criminal Record Check of Sajida Bibi Khan dated January 11, 2002
Photocopy of Birth Certificate
Business Plan (Retail) dated February 1, 2002

Handwritten notes dated February 1, 2002
2002 Business License #02-442083 dated February 1, 2002
2003 Business License #03-398184 dated January 24, 2003
2004 Business License #04-021132 dated January 7, 2004
2005 Business License #05-147224 dated December 13, 2004
Property Use Inspection Report #UI 26734 dated June 16, 2005
Property Use Inspection Report #UI 26737 dated June 16, 2005
Letter to Sajida Khan from Barb Windsor dated June 16, 2005
Letter to Petrina Enterprises Inc. from Paul Teichroeb dated June 20, 2005
Company Search for Petrina Enterprises Inc. dated June 20, 2005
Email to Barb Windsor from Julia Agosti dated June 21, 2005
Handwritten notes dated June 23, 2005
Invoice dated January 22, 2004 faxed to Barb Windsor on June 26, 2005
Letter to Sajida Khan and Afzal Khan from Barb Windsor dated June 29, 2005
Property Use Inspection Report #UI 26845 dated June 30, 2005

2 Police Department - 102 West Hastings

Police Report #00-100475 dated May 8, 2000
Police Report #00-176868 dated August 4, 2000
#2004-283031 dated October 30, 2004

3 800 East Hastings

2000 Business License #00-372606 dated June 1, 2000
Police Report #00-177925 dated August 4, 2000
Police Report #00-189415 dated August 18, 2000
Handwritten Notes dated August 18, 2000
2000 Business License #00-379741 dated August 23, 2000
Sale Agreement dated September 10, 2000
Commercial Lease dated September 11, 2000
Copy of Cheque dated September 29, 2000
Social Service Tax form dated September 29, 2000
Application for Registration as a Vendor
Handwritten Signed Agreement of Sale
Handwritten Notes

4 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

The Panel also had before it the following additional documents which were distributed immediately prior to the commencement of the Hearing (*on file in the City Clerk's Office*):

- Police Report #98-83458 page 1 dated April 15, 1998
- Business License Hearing Panel Decision dated June 23, 2005, regarding an application by Zainab Bib Khan for a convenience store at 120 West Hastings Street.

Catherine Kinahan, Law Department, was present on behalf of the City of Vancouver. Sajida Khan, the Licensee, was not present. Talman W. Rodocker, Gibbons Fowler Nathanson, represented the Licensee. Ms. Khan's parents, Mr. Afzal Khan and Mrs. Shern Khan, were also present.

Ms. Kinahan advised that the 2005 business license issued to Sajida Khan doing business as S & R Grocery had been referred to the Panel by the Deputy Chief License Inspector with a recommendation that the license be suspended or revoked. Ms. Kinahan further advised the Panel of their authority in these proceedings pursuant to Section 275 of the *Vancouver Charter* which provides that the issuance of a business license and conditions attached to the license to be at the discretion of Council.

Ms. Kinahan advised the Panel the issue to consider is one of management and whether the Licensee is able to control and properly manage the Premises in a manner that will not cause a drain on community resources or carry on business to the detriment of the neighbourhood. She further noted the Licensee has allowed a known drug trafficker to work on the premises, despite the Deputy Chief License Inspector's request not to permit this.

Ms. Kinahan informed the Panel that the Counsel for the Licensee has admitted the contents of all Police and Property Use Inspection documents which will be referred to by the Deputy Chief License Inspector and that the witnesses are present in case the Panel or Licensee's Counsel has any questions about those admitted documents.

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

Barb Windsor, Deputy Chief License Inspector, City of Vancouver
Police Constable #2153 Lisa Horne

Mr. Rodocker also directed questions to Ms. Windsor.

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The Panel recessed at 8:56 p.m. and reconvened at 9:01 p.m.

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Prior to calling the City of Vancouver's second witness, Ms. Kinahan clarified with Mr. Rodocker that he had agreed to admit the contents of all the documents produced by the City as evidence. Mr. Rodocker confirmed those admissions. Mr. Rodocker noted he had only been advised of the evidence of Police Constable Horne on the day of the Hearing. Ms. Kinahan advised the Panel she had just been able to locate the witness the evening before and that she had offered Mr. Rodocker an adjournment to consider Police Constable Horne's evidence.

Police Constable Horne testified. Mr. Rodocker also directed questions to Police Constable Horne. Mr. Rodocker then requested a ten-minute recess to speak with his client.

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The Panel recessed for ten minutes and reconvened at 9:17 p.m.

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Mr. Rodocker advised that on behalf of the Licensee and Mr. Afzal Khan, he would not be calling any witnesses this evening.

Mr. Rodocker submitted that when Mr. Khan met with the Deputy Chief License Inspector on June 23, 2005, he learned for the first time the seriousness of having Habib Win employed at the store, and subsequent to that meeting, Mr. Khan terminated Mr. Win's employment. Mr. Rodocker further noted that the Khans have given requested information to the City and did not hide who was working at the store. Mr. Rodocker advised the Panel that the convenience store is a thriving business offering a service in the neighbourhood, supports Mr. and Mrs. Khan's family, and that the Khans have no direct relationship with Mr. Win.

Mr. Rodocker also submitted that Mr. Khan did not comprehend the City's concern and was not put on proper notice as to the jeopardy the business was in due to his constant employment of Mr. Win. Mr. Rodocker stated the June 16, 2005, letter from the City requesting a meeting with the Deputy Chief Inspector was addressed to Sajida Khan. He further noted Mr. Khan attended the meeting and following it, the Licensee was advised in writing that the business license was being referred to a Hearing with a recommendation that it be suspended or revoked.

Mr. Rodocker asked that the license not be suspended or revoked, saying Mr. Khan would accept conditions to satisfy the Panel, in order to keep the business open, such as not employing Mr. Win and ensuring he is not on the premises, not even as customer, and closing on Sundays. He further noted that since June 2005, there were no reports of Habib Win being seen on the premises. Mr. Rodocker requested that Mr. Khan be given a chance for due process and fair notice.

Ms. Kinahan agreed that revocation would not be appropriate in this instance. She noted however, Mr. Khan ignored the advice of the Deputy Chief License Inspector. Ms. Kinahan submitted that Mr. Khan has shown poor management in continuing to employ Mr. Win after a warning about his activities. She submitted that the Panel may wish to consider issuing a short suspension. She also suggested the Panel consider issuing a new business license with

conditions. She suggested changing the name on the license to be Afzal Khan to reflect that he is in fact, running the business. She also suggested conditions that Habib Win may not have anything to do with the business, that a list of all employees be submitted to the Deputy Chief Licensing Inspector and that criminal background checks be required on all employees.

Mr. Rodocker advised that Mr. Khan is prepared to make those modifications.

PANEL MEMBERS DISCUSSION

Panel members were concerned about whether or not Mr. Khan would continue to permit Mr. Win to work in the business. The Panel questioned the Deputy Chief License Inspector about enforcement of license conditions. The Panel also discussed the possibility of a suspension, the lack of control of the premises and the drain on City resources when repeated drug dealing occurs on a licensed premise. They noted there is some doubt whether Mr. Khan was aware of the gravity of the situation. As well, once Mr. Khan became aware of the City's concerns in 2005, it appeared that he had dealt with matter.

MOVED by Councillor Ladner

THAT the 2005 City of Vancouver business license for S & R Grocery Store located at 102 West Hastings Street, Vancouver, British Columbia (the business), be issued subject to the following conditions:

- i. THAT the business license be issued in the name of Afzal Khan because Afzal Khan is in fact, running the business and is responsible for the proper management and control of the business;
- ii. THAT Habib Win is not employed or involved in any way in the business and is not allowed on the licensed premises;
- iii. THAT a list of employees be submitted to the City License Inspector forthwith and that such list be kept current in order to ensure Police background checks to be conducted on all employees of the business; and
- iv. THAT a surveillance camera be installed in the business and that the license holder ensure that it is working order at all times.

CARRIED UNANIMOUSLY

At the conclusion of the Hearing, Counsel for the City recommended that Afzal Kahn make immediate arrangements to meet with the Deputy Chief License Inspector regarding issuance of a new license.

The Business License Hearing Panel adjourned at 10:08 p.m.

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