



**CITY OF VANCOUVER**  
**BUSINESS LICENSE HEARING MINUTES**  
**JANUARY 31, 2006**

A Business License Hearing of the Council of the City of Vancouver was held on Tuesday, January 31, 2006, 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 2006 should be granted to Frances Kathleen Maude Viscount (the "License Applicant") doing business as Fran's Grocery, for business premises located at 635 Commercial Drive, Vancouver, British Columbia (the "Premises").

**PRESENT:** Councillor Raymond Louie, Chair  
Councillor Elizabeth Ball  
Councillor George Chow

**CITY CLERK'S OFFICE:** Denise Salmon, Meeting Coordinator

**1. Fran's Grocery - 635 Commercial Drive (File 08-2000-40)**

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:

Tab

**1 Licenses and Inspections - 635 Commercial Drive**

Lease dated May 31, 2004  
Business License Application dated June 21, 2004  
Police Background Check dated June 21, 2004  
Copy of Drivers License  
E-mail to Susan Smith from Jill Proctor dated July 19, 2004  
Handwritten Notes dated July 27, 2004  
Letter to Frances Viscount from Barb Windsor dated July 28, 2004  
Handwritten Notes dated August 17, 2004  
Operating Agreement dated August 17, 2004  
2004 Business License #04-537702 dated August 17, 2004  
2005 Business License #05-146499 dated January 10, 2005  
Lease Agreement - not fulfilling terms dated July 22, 2005  
Lease Agreement - terms continued to not be met dated July 26, 2005  
E-mail to GWPCP from Syd Kelland dated July 27, 2005  
Business License Application for Maynor Mayen dated September 14, 2005  
Application for Transfer dated September 14, 2005  
Handwritten Notes dated September 19, 2005  
Letter to Frances Viscount from Barb Windsor dated October 4, 2005  
Suspension Notice  
Letter to Paul Teichroeb from Maynor Mayen dated October 12, 2005

Appeal letter from Frances Viscount dated October 12, 2005  
Letter to Frances Viscount from Barb Windsor dated October 13, 2005

**2 Health Department - 635 Commercial Drive**

Inspection Report #12 dated August 15, 2005  
E-mail to Syd Kelland from Shelley Beaudet dated August 17, 2005  
Inspection Report #13 dated September 14, 2005  
Inspection Report #14 dated September 26, 2005  
E-mail to Barb Windsor from Shelley Beaudet dated October 13, 2005  
Inspection Report #16 dated October 14, 2005

**3 Police Department - 635 Commercial Drive**

Report #2005-207765 dated August 19, 2005  
Report #2005-229364 dated September 14, 2005

**4 Licenses and Inspections - 237 E Hastings**

Letter to Mike Paydar from Director of Legal Services  
1998 Business License #98-217019 dated February 19, 1998  
1999 Business License #99-310378 dated January 11, 1999  
Letter to Barb Windsor from Lisa MacDonald dated June 28, 1999  
Handwritten Notes dated May 21 - July 7  
Letter to Barb Wilson (Windsor) from Frances Viscount dated July 11, 1999  
Handwritten Notes dated July 13, 1999  
Letter to Mike Paydar from Paul Teichroeb dated July 19, 1999  
Council Minutes dated September 22, 1999

**5 Health Department - 237 E Hastings**

License Screen Printout  
Application dated January 19, 1998  
Report dated January 19, 1998  
Food Service Establishment dated January 26, 1998  
Report dated March 22, 1998  
Reports dated March 26, 1998  
Report dated April 2, 1998  
Letter to B. McIntyre from A Friend dated October 30, 1998  
Report dated October 30, 1998  
Report dated November 2, 1998  
Report dated November 3, 1998  
Report dated December 17, 1998  
Report dated December 19, 1998  
Report dated March 10, 1999  
Report dated March 11, 1999  
Report dated June 28, 1999  
Report dated June 30, 1999

**6     Police Department - 237 E Hastings**

Report #99-108647 dated May 21, 1999  
Report #99-116544 dated May 30, 1999  
Report #99-136101 dated June 23, 1999

**7     Licenses and Inspections - 1048 Granville**

Application for Transfer dated April 9, 2001  
2001 Business License #01-410849 dated September 11, 2001 (Restaurant)  
2002 Business License #02-137554 dated January 28, 2002 (Restaurant)  
2002 Business License #02-137555 dated May 24, 2002 (Dining Lounge)  
2003 Business License #03-395565 dated January 21, 2003 (Restaurant)  
2003 Business License #03-395566 dated January 21, 2003 (Dining Lounge)  
Co-ordinated Inspection Report #CU 10213 dated July 12, 2003  
Inspection Tracking Sheet dated July 12, 2003  
Inspection Tracking Sheet dated September 20, 2003  
Co-ordinated Inspection Report #CB 10208 dated November 6, 2003  
Co-ordinated Inspection Report #CU 10242 dated November 6, 2003  
Plan Showing Location of Unit 1  
Legal Notice dated November 6, 2003  
Letter to Regal Eighty-Eight from J.N. Robertson dated November 27, 2003

**8     Health Department - 1048 Granville**

Letter to Francis Viscount from Shelley Beaudet dated November 6, 2003  
Inspection Report #26 dated November 6, 2003

**9     Police Department - 1048 Granville**

Report #2003-235480 dated September 13, 2003  
Project Domino dated October 22, 2003  
Report #2003-286337 dated November 6, 2003  
Report #2003-300944 dated November 23, 2003

Iain Dixon, Counsel, was present on behalf of the City of Vancouver. Frances Kathleen Maude Viscount (the "Licensee") was present and represented by Counsel, Mr. Glen W. Bell.

This matter was 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 section 277 of the Vancouver Charter.

Mr. Dixon advised this matter was originally before Council on October 27, 2005, but as the courier did not deliver the evidence package to Ms. Viscount, she was unaware of the Hearing. Accordingly, the matter before the Panel is not now if the license should be suspended, but rather if a 2006 City of Vancouver business license should be issued to Ms. Viscount.

Mr. Bell requested an adjournment of the Hearing on two grounds:

- the anticipated sale of Ms. Viscount's business once her landlord has consented to signing of the lease with the prospective new tenant, at which time Ms. Viscount will abandon her license or any renewal of it; and
- the late receipt of additional evidence documents forwarded by the City on Thursday, January 26th in the afternoon, which has not provided the appellant sufficient time to investigate the matters referred to therein and prepare a response.

Mr. Dixon, in response to Mr. Bell's adjournment request, advised the question before Council this day was whether or not Ms. Viscount was an appropriate holder of a business license within the City of Vancouver. The Panel unanimously agreed that the application for adjournment not be granted.

Mr. Dixon advised that the proceedings were taking place pursuant to Section 275 of the Vancouver Charter which provides that the granting or refusing of a license is deemed to be at the discretion of Council, and the Panel must provide valid reasons for its decision.

Mr. Dixon referred the Panel to the Notice of Hearing contained within the afore-mentioned Evidence Brief, which sets out the allegations that the Licensee has failed to properly manage the Premises by:

- (a) failing to comply with the provisions of the *Health By-law* of the City of Vancouver;
- (b) failing to comply with the provisions of the *License By-law* of the City of Vancouver;
- (c) failing to comply with the provisions of the *Zoning and Development By-law* of the City of Vancouver;
- (d) failing to maintain control over the Licensed Premises; and
- (e) carrying on business to the detriment of safety and well-being of the public.

Mr. Dixon also referred the Panel to a Supplementary Evidence package and photographs of a male identified as Mr. Paydar, at the doorway of 635 Commercial Drive (*circulated at the meeting and on file in the City Clerk's Office*).

Mr. Bell, in his Opening Statement, stated if there have been any deficiencies in the past, they have been addressed and the business is currently being well managed by Ms. Viscount.

In support of the allegations set out in the reports and evidence contained within the aforementioned Evidence Brief and supplementary material, Mr. Dixon called the following witnesses:

Barb Windsor  
Shelley Beaudet  
PC 1966 Eileen Volpatti  
PC 2368 Tyron Sideroff  
PC 2305 Gordon Stokes

Mr. Bell also directed questions to the witnesses.

The following evidence (*circulated at the meeting and on file in the City Clerk's Office*) was submitted by the licensee's Counsel, Mr. Bell:

- documents entitled "Undertaking Given to a Justice or a Judge" regarding Mr. Paydar;
- letters of reference for Ms. Viscount from the General Manager of Aldergrove Mall, and two store patrons, Alphonse Leong and Al Stewart; and
- a plaque presented to Ms. Viscount by the BC Lotteries Corporation, in recognition of her work at the lottery booth she operates at Aldergrove Mall.

Mr. Bell called Frances Kathleen Maude Viscount as a witness. Ms. Viscount explained Mr. Paydar, her partner of over 20 years, helped carry groceries, did handyman jobs, and on occasion, assisted in supervising Fran's Grocery, 635 Commercial Drive. Ms. Viscount also noted her desire to sell her business, in part due to the constant harassment from her landlord, Mr. Pallai.

Mr. Dixon also directed questions to the witness.

Mr. Dixon submitted that the evidence presented at this Hearing accords with the allegations as set out in the evidence briefs and sets out the legal test which the Panel must apply in determining whether or not a 2006 City of Vancouver business license be granted to Frances Kathleen Maude Viscount doing business as Fran's Grocery, for business premises located at 635 Commercial Drive, Vancouver, British Columbia.

Mr. Bell submitted that the deficiencies in the operation of Fran's Grocery have now been addressed regarding how the property is managed. In regard to the presence of Mr. Paydar, Mr. Bell referenced the unclear language in the operating agreement, and further noted Mr. Paydar's interest is not voluntary, as he is simply assisting his common law spouse. He further suggested Mr. Paydar's restraining order will address his further involvement in the business. Mr. Bell also submitted there is no evidence that the premises are now being mismanaged, and requested Council grant an extension of the license to allow time for Ms. Viscount to sell her business, at which point she will abandon her license and remove herself from the business entirely. Evidence shows there would be no harm to the City in allowing the license to continue until the end of February to allow the anticipated sale to proceed.

#### **PANEL MEMBERS DISCUSSION**

Panel members noted the Licensee's continued failure to control the conduct of employees and patrons on the premises, to properly manage the premises, and referenced the business' continued drain on City resources.

MOVED by Councillor Ball

THAT a 2006 City of Vancouver business license not be issued to Frances Kathleen Maude Viscount doing business as Fran's Grocery (the "Licensee"), for business premises located at 635 Commercial Drive, Vancouver, British Columbia (the "Premises"), because the Licensee has failed to properly manage the Premises by:

- (a) failing to comply with the provisions of the *Health By-law* of the City of Vancouver;
- (b) failing to comply with the provisions of the *License By-law* of the City of Vancouver;
- (c) failing to comply with the provisions of the *Zoning and Development By-law* of the City of Vancouver;
- (d) failing to maintain control over the Licensed Premises; and
- (e) carrying on business to the detriment of safety and well-being of the public.

CARRIED UNANIMOUSLY

The Business License Hearing Panel adjourned at 1:25 p.m.

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