



CITY OF VANCOUVER
BUSINESS LICENSE HEARING MINUTES
MARCH 9, 2006

A Business License Hearing of the Council of the City of Vancouver was held on Thursday, March 9, 2006, at 7:58 p.m. in the Council Chamber, Third Floor, City Hall to determine whether or not a City of Vancouver business license for the year 2006 will be granted to Hong Nhan Truong (the "License Applicant") for a Limited Service Food operation to be located at 654 Kingsway, Vancouver, British Columbia (the "Premises").

A ten-minute recess was called and the Hearing reconvened at 8:10 p.m.

PRESENT: Councillor Heather Deal, Chair
Councillor George Chow
Councillor Raymond Louie

CITY CLERK'S OFFICE: Pat Boomhower, Meeting Coordinator

1. Hong Nhan Truong - 654 Kingsway (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:

Notice of Hearing

Tab

1 Licenses and Inspections - 2000 - 2004

Letter to Li-Zhen Xu from D.H. Jackson dated December 6, 2000
Do Not Occupy Notice dated April 17, 2001
Letter to Li-Zhen Xu from D.H. Jackson dated May 2, 2001
Occupancy Permit #OC 417164 dated July 12, 2002
2004 Business License #04-020517 dated January 6, 2004 - Thi Kha Ly Nguyen
Application for Transfer dated February 21, 2004
License Printout dated February 26, 2004
Business License Application dated March 1, 2004 - Thuy Thi Nguyen
Police Background Check dated March 1, 2004
Copy of Drivers License
L & I Inspection Report #IR 376536 dated March 1, 2004
Handwritten Notes dated March 31, 2004
Complaint Form #EN 017003 dated March 31, 2004
Property Use Inspection Report #UI 23139 dated April 3, 2004
Liquor Inspection Check Sheet dated April 3, 2004

L & I Inspection Report #IR 376735 dated April 6 & 13, 2004
Handwritten Notes dated May 26, 2004
Operating Agreement dated May 26, 2004
2004 Business License #04-528768 dated May 26, 2004 - Thuy Thi Nguyen
Police Report #2004-5326 dated August 5, 2004
Co-ordinated Inspection (Property Use) #CU 10327 dated September 18, 2004
Liquor Inspection Sheet dated September 18, 2004
Police Licensed Premises Check dated September 18, 2004
Police Report #2004-244143 dated September 18, 2004
Co-ordinated Liquor License Inspection #LC 10016 dated October 31, 2004
Letter to Thuy Thi Nguyen from Barb Windsor dated November 26, 2004
L & I Inspection Report #IR 372827 dated November 26, 2004
Handwritten Notes dated December 1, 2004

2 Licenses and Inspections - 2005

Business License Application dated January 24, 2005 - Duc Thang Huynh
Police Background Check dated January 24, 2005
Copy of Drivers License
Handwritten Notes dated March 23, 2005
Business Operation dated April 2, 2005
Lease
Operating Agreement dated April 26, 2005
2005 Business License #05-172655 dated April 27, 2005 - Duc Thang Huynh
Police Report #CP000138482-2005 dated May 29, 2005
Police Report #CP000141896-2005 dated June 3, 2005
Police Report #CP000142731-2005 dated June 4, 2005
Police Report #CP000143627-2005 dated June 4, 2005
Police Report #CP000150717-2005 dated June 14, 2005
Police Report #CP000174327-2005 dated July 11, 2005
Police Report #CP000207627-2005 dated August 19, 2005

3 Licenses and Inspections - 2006

Business License Application dated December 13, 2005 - Lan Ngoc Nguyen
2006 Business License Application Printout
Printout - cancelling application
Business License Application dated December 16, 2005 - Hong Nhan Truong
Police Background Check dated December 16, 2005
Copy of Drivers License
Fax to Jodyne Keller from Susan Smith dated December 23, 2005
E-mail to Jodyne Keller from Susan Smith dated January 12, 2006
Police Report #2001-3114
Handwritten Notes dated January 18, 2006
Letter to Hong Nhan Truong from Barb Windsor dated February 13, 2006
Handwritten Notes dated February 13, 2006
Letter to Barb Windsor from Hong Nhan Truong dated Febraury 17, 2006
E-mail to Barb Windsor from Jodyne Keller dated February 21, 2006
Property Use Inspection Report #UI 28753 dated February 23, 2006

Ms. Catherine Kinahan, Counsel, was present on behalf of the City of Vancouver. Mr. Hong Nhan Truong, the License Applicant, was present and represented himself, with the aid of Mr. Chanh Bui, a certified Vietnamese Interpreter.

This matter was referred to City Council by the Chief License Inspector pursuant to Section 4 of the *License By-Law* of the City of Vancouver.

Ms. Kinahan 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 is deemed to be at the discretion of Council. Ms. Kinahan referred the panel to the evidence before it as set out in police reports, documentation and letters from the Deputy Chief License Inspector which were considered by the Chief License Inspector in referring the business license application to Council, and evidence of witnesses, which set out allegations that:

- (a) the application appears to be a sham to obtain a business license for another individual; and
- (b) the proposed business 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.

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

Barb Windsor, Deputy Chief License Inspector
Angelo Marrocco, Property Use Inspector

In response to questions, Ms. Windsor noted the City would not permit a social club at that location, and outlined options available to the Panel if a license is refused, to have all future business license applications for the premises come before Council and to require the building owner to also come before Council for any future applications. She further noted building owners are notified of problems occurring on the premises.

Ms. Kinahan submitted that one of the concerns expressed was that the lease appeared to pass from one person to another without someone paying for the purchase of the business.

Mr. Truong questioned Ms. Windsor regarding when a business can open its doors once a license has expired.

Mr. Truong submitted that since he did not have a business license when Mr. Marrocco came by, the front doors were kept locked and, that upon receipt of the Inspector's business card, he made an appointment with Mr. Marrocco. Mr. Truong also expressed frustration with the power he felt the City and police have and that he did not want people to put him down as he tries to open a business. Mr. Truong indicated he works in construction while trying to get the store established.

The Panel questioned the License Applicant to help clarify his understanding of the need for a business plan and the City's need for assurance that a proposed business is viable, legitimate

and not a detriment to the neighbourhood, in order to grant a business license. The Panel discussed concerns regarding the likelihood the License Applicant's coffee shop would be operated as a gambling establishment with the same people involved as when past problems occurred.

Ms. Kinahan advised the following:

- a business plan was required because this location has a history of problems;
- concern regarding the License Applicant's association with the people and similar behaviour referred to in the reports;
- the License Applicant's lack of experience and expertise in managing a food service operation;
- it is not a personal reflection on Mr. Truong; however, the City needs to know someone has a viable plan for the business and that the business would not generate complaints and need for police and inspector visits to the premises;
- a previous restaurateur at that location had gone bankrupt and subsequent operations have been unlicensed social clubs;
- it is not fair to the residential neighbourhood to have a social club there; and
- at some point, the building owner has to take some responsibility for the problems occurring at the premises.

Mr. Truong advised he did not want to continue with this business license application and that he did not know there were so many problems until he received the Evidence Brief for this hearing.

The License Applicant abandoned his business license application.

The Business License Hearing Panel adjourned at 9:20 p.m.

* * * * *