

CITY OF VANCOUVER



BUSINESS LICENSE HEARING MINUTES

NOVEMBER 9, 2006

A Business License Hearing of the Council of the City of Vancouver was held on Thursday, November 9, 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 Hanjia Sun doing business as Pacific Shiatsu Massage Clinic (Oriental Clinic) (the "Licensee"), for business premises located at #404 - 825 Granville Street, Vancouver, British Columbia (the "Premises").

PRESENT: Councillor George Chow, Chair
Councillor Suzanne Anton
Councillor Kim Capri

CITY CLERK'S OFFICE: Denise Salmon, Meeting Coordinator

1. **Hanjia Sun dba Pacific Shiatsu Massage Clinic (Oriental Clinic)**
#404 - 825 Granville Street (VanRIMS No. 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:

Tab1 Licenses and Inspections

Property Use Inspection Report #UI 21035 dated August 8, 2003
Letter to Dorset Properties from Lee Chapelle dated August 12, 2003
Property Use Inspection Report #UI 21527 dated September 19, 2003
Property Use Inspection Report #UI 26736 dated June 16, 2005
Business License Application Form dated July 22, 2005
Police Background Check Form dated July 22, 2005
Copy of Drivers License of Hanjia Sun
Handwritten Letter to License Department from Hanjia Sun dated July 22, 2005
E-mail to Susan Smith from Jodyne Keller dated August 8, 2005
Handwritten Notes dated September 1, 2005
Letter to Hanjia Sun from Barb Windsor dated September 2, 2005
2005 Business License #05-191065 dated September 2, 2005
E-mail to Barb Windsor from Dana Bertrand dated September 12, 2005
E-mail to Sam Sullivan from Lisa Zhou dated May 8, 2006
Handwritten Notes dated June 12, 2006
Handwritten Notes dated October 5, 2006
Business License Application Form dated October 5, 2006
Property Use Inspection Report #UI 30611 dated October 5, 2006
Photographs

2 Court Convictions

E-mail to Barb Windsor from Iain Dixon dated July 13, 2006
Court dates and outcomes

3 Police Department

Report #2005-151915 dated June 15, 2005
Report #2005-180883 dated July 19, 2005
Paladin Security Incident Report dated July 29, 2005

Iain Dixon, Lawyer, was present on behalf of the City. Mr. Hanjia Sun (the "License Applicant") was present and assisted by Miguel Tu, a certified Mandarin interpreter.

Mr. Dixon advised this matter had been referred to City Council by the Chief License Inspector of the City of Vancouver who has recommended that the license not be issued pursuant to section 278 of the *Vancouver Charter* and further advised 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. Section 277.1 of the Vancouver Charter confers on Council the power to delegate the holding of business license hearings to one or more Council members.

Mr. Dixon referred the Panel to the Notice of Hearing contained within the aforementioned Evidence Brief which sets out the allegations that the applicant has failed to properly manage the Premises by carrying on business to the detriment of the safety and well being of the public, carrying on business to the detriment of other licensed businesses in the City of Vancouver; and repeatedly violating the by-laws of the City of Vancouver and asked that the Panel consider the impact on the neighbourhood, the drain on City resources, and compliance with legislation when making its decision. Mr. Dixon also referred the Panel to the following documents submitted at this hearing (on file in the City Clerk's Office):

- a document, updated January 2006, entitled "Information & Application Process for Street Vending on City Property"; and
- a copy of the Street Vending By-law No. 4781, (consolidated to January 1, 2005).

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

Barb Windsor, Deputy Chief License Inspector
Assistant Director of Licenses & Inspections
Mike Bidwell, Property Use Inspector
Alan Rockett, Street Use Inspector
Leo Megaro, Supervisor, Streets Activities

Mr. Sun, with the aid of the interpreter, also directed questions to the witnesses.

The following evidence (on file in the City Clerk's Office) was submitted by the license applicant:

- an application, dated November 6, 2006, from Hanjia Sun requesting a massage street vending permit;
- an medical examination statement re Hanjia Sun, dated May 2, 2005, from Dr. Matthew Teh; and
- photographs of various sandwich boards showing their placement on City sidewalks.

Mr. Dixon provided clarification to Panel members on what type of businesses are allowed under the City's Street Vending By-law, clarified uses of a mobile vending permit, and noted Mr. Sun's request for massage services on public streets is not currently allowed under those regulations. Clarification was also provided by City staff on allowable activities under the Business License which Mr. Sun has applied for.

Mr. Sun addressed the Panel and, with the aid of the interpreter, provided a history of his employment in Canada, noted previous meetings with City staff, admitted before today he did not have a full understanding of the City's licensing or signage regulations, and reiterated his request for a mobile license.

Mr. Dixon submitted that Mr. Sun has not demonstrated any ability to abide by the rules and regulations of the City, especially his continued flouting of the Sign by-law, with numerous convictions in Provincial Court, and submitted that the evidence presented at this Hearing accords with the allegations as set out in the evidence brief and additional evidence circulated at the meeting, and sets out the legal test for the Panel to apply to determine whether or not a 2006 City of Vancouver business license be granted to Hanjia Sun doing business as Pacific Shiatsu Massage Clinic (Oriental Clinic) (the "Licensee"), for business premises located at #404 - 825 Granville Street, Vancouver, British Columbia (the "Premises").

Mr. Dixon concluded by stating that if the Panel was inclined to issue Mr. Sun a standard license, it should be issued for his present location on Granville on the conditions that there be no massage chair outside of the building or anywhere, and no signage be allowed.

Mr. Sun outlined his difficult personal circumstances, which included health issues, and the need to support his extended family, and also advised he had been following the Provincial Court Order regarding his massage furniture and would not knowingly disregard City by-laws. He advised he will follow all the rules and regulations and requested the Panel issue him a 2006 Business License.

PANEL MEMBERS DISCUSSION

Prior to a decision on this matter, one Panel member noted the management practices of this business have been to the detriment of the safety and well being of the public and of other licensed businesses in the neighbourhood and also noted Mr. Sun had repeatedly not complied with the by-laws of the City of Vancouver, resulting in a drain on City resources, and recommended Mr. Sun not be issued a 2006 business license.

The remaining Panel members noted that while Mr. Sun continued to question allowed activities for the license applied for, he seems capable of carrying on his business at 824 Granville Street, and must therefore accept conditions in order for the license to be issued.

Panel members advised that if Mr. Sun is prepared to comply with the signage rules, which would mean no sandwich boards would be permitted, and his massage chair is never set up in a public place, then the license could be issued, with those conditions, and that breach of the conditions would result in immediate cancellation of his license.

MOVED by Councillor Anton

THAT a 2006 City of Vancouver business license be issued to Hanjia Sun doing business as Pacific Shiatsu Massage Clinic (Oriental Clinic) (the "Licensee"), for business premises located at #404 - 825 Granville Street, Vancouver, British Columbia (the "Premises"), with the following conditions:

- (a) no sandwich board signs shall be used, and the licensee must comply fully with the Sign By-law; and
- (b) no massage chair or equipment shall be set up outside of any building in the City of Vancouver;

FURTHER THAT Mr. Sun be brought back immediately before Council to have his license cancelled should there be any breach of either (a) or (b) as set out above, or being in public improperly, or any other City regulation.

CARRIED
(Councillor Capri opposed)

The Business License Hearing Panel adjourned at 1:40 p.m.

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